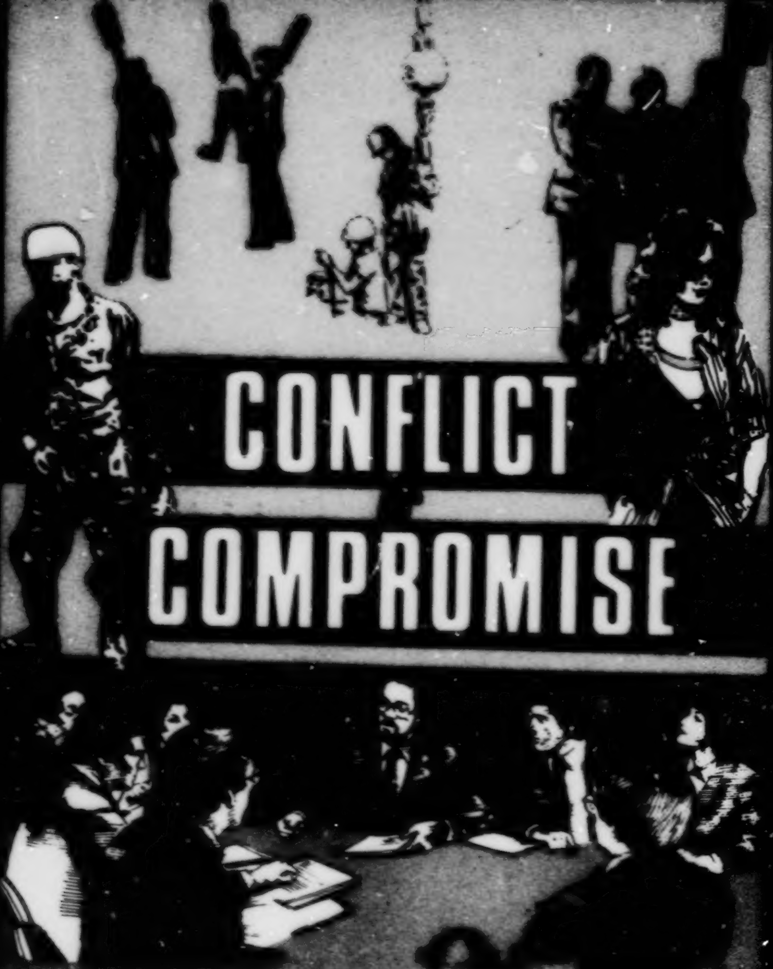
CONFLICT
COMPROMISE



[illegible]

[illegible]

35-1216/

The Institute /L'Institut

for Research on Public Policy / de recherches politiques

Founded in 1972, The Institute for Research on Public Policy is a national organization whose independence and autonomy are ensured by the revenues of an endowment fund which is supported by the federal and provincial governments and by the private sector. In addition, the Institute receives grants and contracts from governments, corporations and foundations to carry out specific research projects.

The *raison d'être* of the Institute is threefold:

- To act as a catalyst within the national community by helping to facilitate informed public debate on issues of major public interest
- To stimulate participation by all segments of the national community in the process that leads to public policy making
- To find practical solutions to important public policy problems, thus aiding in the development of sound public policies.

The Institute is governed by a Board of Directors, which is the decision-making body, and a Council of Trustees, which advises the Board on matters related to the research direction of the Institute. Day-to-day administration of the Institute's policies, programs and staff is the responsibility of the president.

The Institute operates in a decentralized way, employing researchers located across Canada. This ensures that research undertaken will include contributions from all regions of the country.

Wherever possible, the Institute will try to promote public understanding of, and discussion on, issues of national importance, with clarity and impartiality. Conclusions or recommendations in the Institute's publications are solely those of the author and should not be attributed to the Board of Directors, Council of Trustees, or contributors to the Institute.

The president bears final responsibility for the decision to publish a manuscript under the Institute's imprint. In reaching this decision, he is advised on the accuracy and objectivity of a manuscript by both Institute staff and outside reviewers. Publication of a manuscript signifies that it is deemed to be a competent treatment of a subject worthy of public consideration.

Publications of the Institute are published in the language of the author, along with an executive summary in both of Canada's official languages.

Conflict or Compromise

The Future of Public Sector Industrial Relations

Conflict or Compromise
The Future of Public Sector Industrial Relations

edited by
MARK THOMPSON
and
GENE SWIMMER

The Institute for Research on Public Policy/
L'Institut de recherches politiques

Copyright © The Institute for Research on Public Policy 1984
All rights reserved

Printed in Canada

Legal Deposit Fourth Quarter
Bibliothèque nationale du Québec

Canadian Cataloguing in Publication Data
Main entry under title:
Conflict or compromise

ISBN 0-88645-001-2

1. Collective bargaining — Government employees — Canada — Addresses, essays, lectures. 2. Employee-management relations in government — Canada — Addresses, essays, lectures. I. Thompson, Mark, 1939- II. Swimmer, Gene R., 1946– III. Institute for Research on Public Policy.

HD8005.6.C3C66 1984 331.89'04135471 C84–090079–1

The Institute for Research on Public Policy/
L'Institut de recherches politiques
2149 Mackay Street
Montreal, Quebec H3G 2J2

Contributors

Downie, Bryan M.	Professor, School of Business, Queen's University; Chairman of Ontario Education Relations Commission.
Fisher, E.G.	Associate Professor, Faculty of Business and Commerce, University of Alberta.
Gallagher, Daniel B.	Associate Professor, University of Iowa.
Gunderson, Morley	Professor, Industrial Relations Centre and Department of Economics, University of Toronto.
Hébert, Gérard	Professor, *École de Relations Industrielles, Université de Montréal.*
Panitch, Leo V.	Professor, Department of Political Science, York University.
Rose, Joseph B.	Associate Professor, Faculty of Business, McMaster University.
Smith, Douglas A.	Associate Professor, Department of Economics, Carleton University.
Swan, Kenneth P.	Professor, Faculty of Law, Queen's University.
Swartz, Donald	Associate Professor, School of Public Administration, Carleton University.
Swimmer, Gene	Associate Professor, School of Public Administration, Carleton University.
Swinton, Katherine	Associate Professor, Faculty of Law, University of Toronto.

Thompson, Mark	Associate Professor, Faculty of Commerce and Business Administration, University of British Columbia.
Thwaites, James	Associate Professor, *Département des Relations Industrielles, Université Laval.*
Wetzel, Kurt	Associate Professor, College of Commerce, University of Saskatchewan.

Contents

Foreword **xiii**
Avant-propos **xv**
Preface **xvii**
Glossary **xxi**
Summary **xxiii**
Abrégé **xlv**

MORLEY GUNDERSON
  1: *The Public/Private Sector Compensation Controversy* **1**
E. G. FISHER
  2: *Compensation for Uniformed Security Forces in Canada: Police/Fire-Fighter Wage Parity and Related Issues* **45**
JOSEPH B. ROSE
  3: *Growth Patterns of Public Sector Unions* **83**
JAMES THWAITES
  4: *Tensions within the Labour Movement in Quebec: Relations Between the Public and Private Sectors in Three Case Studies from 1972 to 1982* **121**
GENE SWIMMER
  5: *Militancy in Public Sector Unions* **147**
DOUGLAS A. SMITH
  6: *Strikes in the Canadian Public Sector* **197**
GÉRARD HÉBERT
  7: *Public Sector Bargaining in Quebec: A Case of Hypercentralization* **229**

KURT WETZEL and DANIEL B. GALLAGHER
8: *Management Structures to Accommodate Multi-Employer Hospital Bargaining in Western Canada* **283**

KENNETH P. SWAN
9: *Grating Expectations: The Limitations on the Development of Normative Criteria in Interest Arbitration* **315**

KATHERINE SWINTON
10: *Grievance Arbitration in the Public Sector* **339**

BRYAN M. DOWNIE
11: *Collective Bargaining Under an Essential Services Disputes Commission* **373**

LEO V. PANITCH and DON SWARTZ
12: *From Free Collective Bargaining to Permanent Exceptionalism: The Economic Crisis and the Transformation of Industrial Relations in Canada* **403**

MARK THOMPSON and GENE SWIMMER
13: *The Future of Public Sector Industrial Relations* **437**

The Members of the Institute **467**
Institute Management **469**
Publications Available **471**

List of Tables and Figures

Appendix 1-1 Ratio of Municipal/Manufacturing Wages of Labourers in Various Communities, 1952 to 1973
Appendix 1-2 Regression Coefficients and Ratio Calculations of Municipal/Manufacturing Wages of Labourers in Various Cities: 1952 to 1980
Table 2-1 The Distribution of Police/Fire-fighter Base Rate Pay Ratios: Municipalities, Municipality Sizes and Provinces
Table 2-2 Annual Leave Provisions for the Uniformed Services in 38 Ontario Municipalities during 1981
Table 2-3 Pension-Scheme Contributions for the Uniformed Services by 38 Ontario Municipalities during 1981
Figure 3-1 Public Sector Union Membership, 1946 to 1981
Table 3-1 Membership Size of Public Sector Unions and Total National and International Unions
Table 3-2 Geographic Distribution of Public Sector and Total Union Membership, 1979
Table 3-3 Female Membership as a Percentage of Total Union Membership
Table 3-4 Public Sector and Total Union Membership, 1911 to 1981
Table 3-5 Membership in Provincial Staff Associations, 1970 to 1975
Table 3-6 Union Penetration in Municipalities

Table 3-7 Association-Union Convergence
Table 4-1 Abbreviations of Labour Organizations' Names
Table 5-1 Work Stoppages Disaggregated by Type and Sector
Table 5-2 Employee Grievances Referred to the Public Service Staff Relations Board for Adjudication
Table 5-3 Attempted Inter-union Raiding Activity: Federal Bargaining Units
Table 5-4 Expected Relationship Between Explanatory Variables and Militancy Indicators
Table 5-5 Descriptive Statistics for Personal Characteristics
Table 5-6 Descriptive Statistics for Occupational Characteristics
Table 5-7 Summary of Responses to Attitudinal Statements
Table 5-8 Summary of Responses about Union Participation
Table 5-9 Correlations Between Pairs of Union Militancy Indicators
Table 5-10 Correlations Between Independent Variables and Militancy Indicators
Table 5-11 Regression Estimates for Actual Participation in Strike and Non-strike Activities
Table 5-12 Regression Estimates for Hypothetical Participation and Attitudinal Union Militancy
Appendix 5-1 Regression Estimates for Militancy Indicators Excluding Federal Cases: Simplified Specifications
Table 6-1 Strikes in the Private and Public Sectors in Canada: 1972 to 1981
Table 6-2 Workdays Lost as a Result of Strikes and Lockouts in Canada, 1972 to 1981
Table 6-3 The Sectoral Distribution of Public Sector Strikes (Percentage of annual public sector total)
Table 6-4 The Regional Distribution of Public Sector Strikes in Canada, 1972 to 1980
Table 6-5 Regression Results: Public and Private Sector Strikes, 1972: I to 1980: IV (t-statistics)

Table 6-6 Regression Results: Public and Private Sector Renegotiation Strikes, 1972: I to 1980: IV (t-statistics)
Table 6-7 Regression Results: Public and Private Sector Strikes in Quebec, 1972: I to 1980: IV (t-statistics)
Appendix 6-1 Data and Sources
Table 7-1 The History of Collective Bargaining in the Quebec Public Sector
Table 7-2 Major Unions in the Quebec Public Sector
Table 7-3 Bargaining Units in the Quebec Public Sector, 5th Round, 1978 to 1980
Table 11-1 Bargaining Situations, 1976-77 to 1981-82
Table 11-2 Average Number of Months Spent in Negotiations, Both by Sector and Combined, 1976-77 to 1981-82
Table 11-3 Average Number of Appointments for Bargaining Situations, 1976-77 to 1981-82
Table 11-4 Average Number of Appointments by Bargaining-Unit Size, as measured by Number of Full-Time Equivalent Teachers
Table 11-5 Average Number of Bargaining Stages for Bargaining Situations, 1976-77 to 1981-82
Table 11-6 Supervised Last-Offer and Strike Votes, 1975-76 to 1981-82
Table 11-7 Sanction Record, 1975-76 to 1981-82
Table 12-1 Union Membership in Canada, 1940 to 1948
Table 12-2 Back-to-Work Legislation in Canada, 1950 to 1978

Foreword

One of the more important developments in Canada in the last twenty years has been the increase of collective bargaining in the public sector. It has improved the relative income position of public servants, teachers, nurses, police officers, fire-fighters and others who work, in one way or another, for the Canadian people. Where the right to strike has been given — and sometimes where it has not — strikes and the 'withdrawal of services' that affects thousands of citizens have from time to time created situations unknown in earlier decades. The improvement in relative pay rates, combined with security of employment at a time of economic recession, has led to resentment against what many perceive to be a preferred position for public servants. As a result, there have been frequent suggestions that the rights exercised in collective bargaining should be curtailed. On the other hand, public servants believe that their rights have been unfairly and discriminately impaired by the restraint policies governments have adopted.

This volume comprises a series of papers which study the operation of public services in Canada in the new era of collective bargaining, as well as the process of bargaining itself. It is part of an effort by the Institute to provide an authoritative survey of the more significant aspects of the entire process of the development of collective bargaining and of the questions it has raised. A second part of this effort, entitled *Collective Bargaining in the Public Sector: The Federal Experience in Canada* and written by Jacob Finkelman and Shirley B. Goldenberg, reviews how collective bargaining has operated in the federal public sector. A further volume by these same two authors will deal with important features of collective bargaining in the provinces.

Collective bargaining for public employees has raised some of the most difficult questions of policy facing government today. The Institute hopes that the studies in this volume, together with the comprehensive Finkelman-Goldenberg reviews, will provide the basis for a better understanding of the issues involved.

Gordon Robertson
Past President and Fellow-in-Residence

July 1984

Avant-propos

L'un des événements qui ont le plus marqué le monde du travail au Canada depuis vingt ans est la généralisation de la négociation collective dans le secteur public. Celle-ci a permis de revaloriser le revenu des fonctionnaires, enseignants, infirmières, policiers, pompiers et autres personnes travaillant d'une façon ou d'une autre pour les Canadiens. Légales ou non, les grèves et les «interruptions de services» qui touchent des milliers de citoyens ont créé des situations inconnues dans les décennies précédentes. Or, le relèvement des traitements des fonctionnaires et la sécurité d'emploi dont ils jouissent en période de crise économique ont suscité un ressentiment contre ce que beaucoup considèrent comme une situation privilégiée. Aussi a-t-on fréquemment proposé de réduire les droits afférant à la négociation collective. Les employés de l'État estiment, quant à eux, que les mesures de restrictions gouvernementales sont discriminatoires et amputent injustement leurs droits.

Le présent volume comprend une série d'études sur le fonctionnement des administrations publiques au Canada et le mécanisme même de la négociation en cette ère nouvelle des relations de travail. Il répond aux efforts de l'Institut pour produire un document qui fait autorité concernant les aspects primordiaux de l'évolution de la négociation collective et de ses enjeux. Dans un deuxième volet intitulé *Collective Bargaining in the Public Sector: The Federal Experience in Canada*, les auteurs Jacob Finkelman et Shirley B. Goldenberg s'attachent à ce phénomène dans l'administration fédérale. Dans un autre ouvrage, ils l'analyseront à l'égard des provinces.

La négociation collective dans le secteur public a soulevé certains des problèmes politiques aigus que connaît aujourd'hui le gouvernement. L'Institut espère que ce document et les études exhaustives de M. Finkelman et de Mme Goldenberg permettront de mieux comprendre la situation.

Gordon Robertson
Ancien président

Juillet 1984

Preface

In the past fifteen years, no change in Canadian public administration has had a greater impact than the advent of collective bargaining for public sector employees. Decisions once taken solely by managers or legislative bodies are now subject to the negotiating process and to public scrutiny of the collective bargaining process. Occasional strikes and, more frequently, threatened stoppages have irritated the public and have caused politicians to be uncomfortable in their quasi-managerial roles. In recent years, debate over what would constitute appropriate compensation in the public sector has become a lively issue, and the private sector has become concerned that its wage bill may be forced up by wages and other working conditions negotiated in the public sector.

The early growth of public sector labour relations occurred in a hothouse environment. Most civil services had already enjoyed some form of consultation with staff associations. But in the 1960s, essentially political decisions in several jurisdictions transformed consultation into bargaining. There was a widely shared belief that public employees were underpaid, and a general growth in government services strengthened the hand of union negotiators. Employee groups were able to establish their priorities more readily than management. In general, labour did well in the early rounds of bargaining. By the mid-1970s, collective bargaining had become the norm in most areas of the public sector. This development occurred at a time when resistance to further increases in government spending was gathering strength. Management mastered the art of negotiation and attempted to resist further gains or even to roll back some concessions that had been granted earlier. No longer were public servants seen as underpaid. Instead, there were widespread reports of public employees receiving higher pay and enjoying greater job security than their counterparts in the private sector.

Since 1980, public sector unions and their employers have moved increasingly on a collision course. Even before 1982, governments were considering the possibility of imposing restraints on public sector wages. Public sector unions were emerging from long-term contracts with their earlier wage increases eroded by inflation, and were riding the crest of a new-found militancy. It was within this environment that we asked The Institute for Research on Public Policy to commission a series of studies that would comprise a volume on public sector industrial relations.

The events that have taken place since January 1982 have given this work added significance. In June 1982, the federal government unilaterally suspended for two years the bargaining option of its 500 000 employees. Most provincial governments followed suit to varying degrees; Quebec went so far as to roll back wages. These actions represent the most dramatic conflicts, to date, regarding the appropriate function of collective bargaining in public administration.

This book begins with two studies on public employee compensation. Morley Gunderson presents a theoretical and empirical review of the comparability of public and private sector compensation. Jed Fisher complements this overview with a study of wage determination for police and fire-fighters across Canada. The next section of the book concerns public employee unions. Joe Rose focuses on the extent of public sector unionization and its prospects for future growth. James Thwaites investigates the sources of tension among Quebec public employee unions. In the chapter by Gene Swimmer, the extent of union militancy is assessed by means of a survey of public employees' attitudes. Finally, Doug Smith investigates the causes and the extent of public sector strikes.

Nowhere in Canada have public sector industrial relations changed more than in Quebec. Gérard Hébert traces the development of the centralized bargaining structure and the consequences of such 'hypercentralization'. One of the challenges of public employee relations is the dual role of management as employer and government (or protector of the public interest). Kurt Wetzel and Dan Gallagher analyse the management structures adopted by the western provinces for bargaining in hospitals. The study of these organizational structures provides an interesting counterpoint to Hébert's discussion of Quebec.

Three chapters are then devoted to a discussion of dispute-resolution experiments. In the first, Ken Swan discusses the difficulties faced by parties and neutrals when relying on arbitration to determine public sector compensation. Katherine Swinton next analyses the peculiarities of public sector rights (or grievance) arbitration. Finally, Bryan Downie looks at the success of the 'arsenal of weapons' approach that was adopted in an effort to resolve interest (or contract) disputes for Ontario teachers.

The last section of the book is more philosophical in nature. Leo Panitch and Don Swartz argue, from a Marxist perspective, that 1982 marked the end of real collective bargaining by public employees. And, in the final chapter, we present a more optimistic view of the future of public sector industrial relations.

The origins of this book can be found in the Government Intervention and Regulation Program of The Institute for Research on Public Policy when its director was Professor William Stanbury. Professor Stanbury's support for the effort during its planning stages was essential to its later success. Valuable advice was offered by Jacob Finkelman, Q.C., and by Professor Bruce Doern of the School of Public Administration at Carleton University. Many of the authors delivered abbreviated versions of their findings at a conference in November 1982, which was co-sponsored by the Institute and Carleton School of Public Administration and skillfully organized by Don Wilson, Conference Director for the Institute. A number of practitioners discussed the papers, and their thoughts were incorporated into the final version of the chapters in this book. Xerox Corporation provided valuable financial assistance for the conference, which contributed greatly to its climate of debate. Nadia Rovinelli provided editorial assistance, and Dana Doiron, from the Institute's Halifax office, co-ordinated the publication process. Throughout the conception, writing and editing of this volume, Gordon Robertson, then President of the Institute, was unflagging in his support and interest. Despite their contributions, none of these individuals is responsible for the views expressed herein by the authors and editors.

Mark Thompson

Gene Swimmer

January 1984

Glossary of Terms

breakaway: the severing by a local union of its relationship with a national or international union

call-out payments: those payments given to employees for being 'on call' and ready to work overtime if necessary. Include a minimum number of hours of overtime for which the employee must be paid if he or she is called in to work.

cashout: lump-sum separation payment

catch-up: a large, one-time, wage increase, granted in order to compensate for past inequities

COLA clause: a cost-of-living-adjustment clause, which ensures employees a salary increase tied to an increase in the overall cost of living, and which would come into effect when the Consumer Price Index increased by a predetermined amount. (See *trigger.*)

cross-over: a change in the relative salary levels of two groups of workers

dues checkoff: the deduction of union dues by the employer from a worker's pay cheque. May be voluntary or mandatory.

end run: the practice of a union avoiding management negotiators in favour of negotiating with politicians

leap-frogging: the practice of a union attempting to obtain a larger wage increase than that of a related union which only recently reached a settlement

manning: the minimum staffing allowable in a given work situation: for example, the number of police in patrol cars. Also refers to job security in general.

Phillips curve: the relationship which holds that the lower the rate of unemployment, the higher the rate of change of wages. If true, it would mean that a policy which pursued both a decrease in unemployment and a decrease in the rate of inflation was inconsistent.

raiding: the practice whereby one union attempts to recruit members from other unions

the Rand Formula: the formula, named after Justice Ivan Rand, that requires all employees represented by a union to pay union dues, even if an individual worker does not want to join the union. The formula affords unions a consistent financial backing and avoids the problem of workers enjoying the benefits of unions while not contributing to their support.

trigger: the minimum increase in the Consumer Price Index, specified in each COLA clause, which will cause the clause to come into effect

voluntary quit: the voluntary resignation of an employee from his or her employment position

whipsawing: a bargaining strategy that uses a strike against one employer as an example to others in order to encourage them to accede to union demands without additional strikes

whistle-blowing cases: those cases in which an employee makes public information which is embarrassing or damaging to his employer or the government in power

yoking: the linking of the wages of one group of workers to those of another group according to a fixed percentage, as with police and fire-fighters. Parity is achieved when the percentage by which the wages are linked is 100 per cent.

Summary

This work is part of a series of studies of the public sector which has been commissioned by The Institute for Research on Public Policy. The first four volumes, which were published jointly by The Institute for Research on Public Policy and the University of Toronto, were concerned with changing patterns of employment in the public sector and with various aspects of public sector compensation.[1] The Institute also commissioned an authoritative volume on the federal sector, written by Jacob Finkelman and Shirley B. Goldenberg and published in November 1983, which describes the beginnings and maturation of collective bargaining by federal employees.[2] A second volume by the same authors, which will study collective bargaining by provincial public employees, is in preparation.

In this volume, the function of collective bargaining in Canada's public sector and the process itself are studied. The volume contains twelve chapters, each written especially for this study and covering issues of importance to public sector labour relations that are not dealt with adequately elsewhere. It concludes with a chapter on the future of public sector labour relations, which draws on the previous studies in the volume. This volume does not attempt to be comprehensive. Consequently, no chapter deals directly with the federal public service, but aspects of labour relations at all other levels of government are treated, including public agencies, such as hospitals. Topics were chosen for their relevance to practitioners and for their scholarly interest.

Perhaps no issue has aroused more controversy in the public sector than that of pay comparisons. One consequence of the public sector's shift from consultative arrangements to collective bargaining was the high profile of compensation decisions made there. Formerly, compensation increases were handled as routine administrative matters. But unions, keenly interested in displaying their bargaining strength, often presented their demands for pay increases with the greatest amount of publicity they could manage. In some areas of the public sector, there was consensus that its employees were not treated as well as those in the private sector, and that their situation should be improved substantially. When the resulting compensatory raises were granted in an inflationary period, the increases were, on occasion, very great and attracted public attention and concern. By the mid-1970s, private sector employers were asserting that employees in the public sector were better compensated than their industrial and commercial counterparts.

In Chapter 1 of this volume, Morley Gunderson reviews a large body of previous research, much of it his own, on this topic. Because of the variety of occupations and the labour-market conditions facing the public sector, accurate comparisons with compensation received by private employees are difficult. To deal with this problem, Professor Gunderson makes use of several analytic techniques in his study.

The analysis of differences in compensation between the public and private sectors should begin by viewing each sector as an industry. Economic theory predicts that, over the long run, competitive forces should eliminate all interindustry wage differences, save those that reflect non-monetary working conditions, such as job security or fringe benefits. Professor Gunderson assumes that, in general, non-monetary benefits, especially stability of employment, are greater in the public sector. Thus the private sector should enjoy wage superiority. However, the competitive economic model may be vitiated by several factors, including political pressures by employees, the inelasticity of demand for certain public services (notably those of police and fire-fighters), unionization, special public sector wage controls, and the monopsonistic power of some public employers. On balance, it is likely that there is an upward bias to public sector wages, but the existence of any such differential is subject to empirical proof.

Three techniques can be employed to analyse public and private sector wage differentials in Canada: occupational wage comparisons, econometric analyses of single-worker wage equations, and macroeconomic estimates of aggregate wage equations. The simplest way to make such comparisons is to look at the rates of pay of public and private sector workers in the same occupations. It then becomes unnecessary to control for differences in education, experience or other personal factors. This type of analysis has been performed on data sets originating between 1952 and 1977. For recent years, the results of these analyses show a public sector wage advantage of between 1 and 15 per cent, which favours females over males and low-wage over high-wage workers. This advantage first appeared in the 1960s, but diminished somewhat in the 1970s.

A fundamental problem with this type of analysis is the possibility that occupations bearing the same title may not entail the same work. To overcome this difficulty, researchers have compared individual workers in the two sectors who enjoy the same levels of education, training, experience and other factors that determine wages. Comparisons of earnings in the 1970 census indicate that, in the public sector, males received 6.2 per cent more and females 8.6 per cent more than their private sector counterparts after qualitative differences in the two-work forces are eliminated.

The third methodology involves the estimation of aggregate wage equations for the public and private sectors by means of macroeconomic variables, such as unemployment and inflation. Although several studies of this type reached conflicting conclusions, there was agreement that wages in the public sector do respond to market forces.

The work just summarized focused on wages for large numbers of employees. But several specific issues have arisen in connection with the public/private sector wage controversy. These include fringe benefit levels, executive compensation, union impact, wage controls, and the effects of arbitration.

No comprehensive evidence exists on the relative value of fringe benefits in Canada's public and private sectors. Data on conditions for which there are direct costs (for example, pensions or vacations) suggest that the treatment of public and private workers is comparable. But items that are not included in direct cost estimates, such as job security or indexed pensions, appear to favour the public sector. Fringe benefits thus enhance somewhat the wage advantage of the public sector. By contrast, it is clear that, at the senior levels, private sector compensation exceeds that of the public sector. The reasons for this situation are largely political, although no empirical data exist to demonstrate either the specific cause of reduced executive salaries or the impact, if any, of these limitations on the management of the public sector.

The effect of unions on wages is also relevant to the public/private sector wage controversy. Most of the public sector is now unionized, and there is a presumption, based on data gathered from the private sector, that unions are able to raise compensation above the levels that would otherwise prevail. But the conditions under which public and private sector unions operate are sufficiently different that separate analysis is necessary. Few such Canadian data are available, however, although those that exist suggest that the effect of the unions may account for most of the public sector wage advantage described above. American research suggests that the effect of the unions is an approximate 5 per cent wage advantage in the public sector.

Finally, the effects of wage controls and arbitration on the levels of public and private sector wages merit consideration. In 1982 most jurisdictions in Canada imposed some form of wage controls on public sector wages. At the time of writing, no data on the impact of these restrictions exist. However, it may be relevant that the federal Anti-Inflation Program of 1975–78 had a greater effect on the public sector than it did on the rest of the economy. The effect of (interest) arbitration will certainly be relevant, as arbitration is the means by which many wage disputes are resolved in Canada when collective bargaining prevails with no controls. It appears that the adjudicative nature of arbitration imparts a slight upward bias on wages, but this conclusion is highly tentative and may not apply to all arbitration systems.

On balance, economic analysis shows that the controversial public sector compensation gap is not great and may already be diminishing. Moreover, there is considerable variation from the pattern of compensation that has existed over time, among different groups in the public sector. But, given the embryonic nature of public sector labour relations, future developments may lead us to draw significantly different conclusions.

Most studies of public sector compensation have dealt with aggregate data. In Chapter 2, E.G. Fisher breaks with this pattern to examine the determinants of pay for police and fire departments. Although very little work has been done in Canada on this subject, there is evidence that in the United States a tradition of police/firefighter wage parity has begun to erode in the face of market and political forces. Professor Fisher first examines the parity issue in Canada, and then turns to other factors which might influence compensation for these groups.

The relative worth of police and fire-fighting personnel troubled management even before the adoption of collective bargaining, and has been more contentious since the issues of unions and salary arbitration entered the debate. The parties engaged in collective bargaining (and the arbitrators) have used various criteria in deciding the relative pay levels of the two services. But Professor Fisher found that the norm is a negotiated collective agreement which is based on settlements (or arbitration awards) in one or more of the nation's three largest cities. Comparisons tend to be made with workers in the same category of service: for example, a fire department in one city will look to fire departments elsewhere to establish its level of pay. In the majority of municipalities, police/fire-fighter wage parity is the exception; on the average, fire fighters receive about 95 per cent of police salaries, within a range of 76 to 106 per cent. At any given time, this discrepancy is, in part, because of the timing of settlements: that is, one department may reach agreement ahead of the other and thus diverge from a traditional (or closer) pay relationship for a short period of time. Moreover, several key settlements in 1981 and 1982 did grant parity to fire-fighting personnel.

The relative compensation levels of the two groups correspond to the labour-market forces at play. Professor Fisher found that fire departments draw more applicants than do police forces until the salary ratio falls to 90 per cent; at that point the number of applications becomes equal. Police officers are also more likely to resign from their jobs than are fire-fighters.

Apart from salaries, each type of department has had serious disputes over working conditions, such as whether police should use two-person patrol cars or whether they should be required to work twelve-hour shifts. But respondents to Professor Fisher's survey reported that compensation remained the most significant bargaining issue, although police personnel expected scheduling to be a major issue in the future. Fire-fighters, who may face the loss of their jobs as a result of the use of robots or other mechanical devices, predicted that job security would be a contentious issue in future bargaining rounds.

Overall, the relative pay levels of these two groups is highly variable. Bargaining structures are fragmented, but agreements are linked by comparisons. Labour-market, political and technological factors differ for the two groups. Several highly publicized strikes and arbitration awards occurred in 1981-82. For these reasons, compensation relationships and labour relations in general are likely to be unsettled for the uniformed security services.

Between 1961 and 1981, public sector unions grew by over one million members. At the end of that period, this once insignificant part of the Canadian labour movement comprised almost 40 per cent of all union members. Neither the causes nor the results of this expansion are well understood, and no general explanation for the growth in Canadian public sector unions has yet been offered.

Econometric equations that explain general union growth fail when applied to public sector unions.

In Chapter 3, Joseph Rose provides the first analysis of this development in the Canadian labour movement. Despite the lack of information on this topic, it is known that many public sector unions began as employee associations which engaged in consultation and lobbying with management and legislators. During the 1960s, these organizations transformed themselves into unions. The causes of these changes seem to be a combination of employee dissatisfaction with consultation, a deterioration of the economic position of public employees relative to the private sector, and a shift in public policy to favour collective bargaining.

The pattern of growth was slightly different for each area of the public sector. In the federal service, growth was concentrated in the period from 1967 to 1970. Existing associations transformed themselves into unions during this period, and both old and new unions obtained certification for new groups of employees. Membership growth began before passage of the Public Service Staff Relations Act, although there was little management resistance to unionization either before or after the Act's passage. Among provincial employees, union growth occurred more slowly, with slightly different periods of expansion for each province; it did not reach its peak until late in the 1970s. Much of this growth occurred through the conversion of existing associations to unions.

Unlike workers at other levels of government, municipal employees had, for decades, enjoyed legal protection for bargaining under private sector legislation. The period of union growth in this sector began in the 1950s and continued almost unabated through 1981. Unionization first took hold in large municipalities and then spread to smaller communities, with further stimulation occurring as a result of growth in employment and the existence of union-security clauses in collective agreements.

With regard to the health-care and education sectors, the available data primarily cover professionals. Although their professional associations have a long history, nurses and teachers first turned to collective bargaining in the 1970s. For legal reasons, nurses formed separate unions while teachers' associations added bargaining to their list of functions. By the late 1970s, these processes were largely complete, and union growth diminished.

The growth patterns of public sector unions not only varied among themselves, but also diverged sharply from the pattern of development of private sector unionism. For instance, mergers have had an important part in the formation of the largest public sector unions. One might speculate that the future performance of public sector unions will be influenced by past growth patterns, as well as by contemporary environmental forces.

The extension of unionization to the public sector provided the labour movement with most of its growth in the 1960s and 1970s and thus was generally welcomed by existing unions. As Professor Rose points out, the circumstances and growth patterns of unionization in the public sector were, however, very different from those in the private sector. Moreover, public employees' claims on government revenues incur resistance from taxpayers, who may themselves be union members. These factors, when added to those of geography, ideology and language — all traditional sources of division in the Canadian labour movement — have produced new tensions within labour centrals. These tensions are especially obvious in Quebec, where competing central bodies existed even before public employees began to unionize.

In Chapter 4, James Thwaites analyses the importance of the public/private sector distinction in the creation of divisions within the Quebec labour movement and examines three major incidents that occurred between 1972 and 1982. In the spring of 1972, the three centrals in Quebec — the Confederation of National Trade Unions (CNTU), the Quebec Federation of Labour (QFL) and the Quebec Teachers' Central (known by its French initials, CEQ) — formed a Common Front to negotiate with the provincial government. Later that year, federations in clothing, textiles and construction left the CNTU to form a rival body, the Central of Democratic Unions (known by its French initials, CSD). This new federation remained relatively apolitical and hostile to left-wing intellectuals in the CNTU leadership, while the CNTU, for its part, continued to concentrate its energies on public sector negotiations and political debates in the province. In 1971, a federation of provincial public service employees had also seceded from the CNTU. In examining both splits, it appears that the causes included the centralized structure of the CNTU — which accentuated the role of its headquarters staff — and its left-wing orientation. The reasons for the divisiveness, in other words, were more ideological in nature than sectoral.

After the divisions of 1971 and 1972, the CNTU engaged in discussions with the CEQ, regarding mergers, from 1976 to 1978. There were obvious advantages for the CNTU if it succeeded in acquiring 85 000 new members, but the issue of unity provoked intense debate in the CEQ. In the end, proposals to enter the CNTU were defeated, chiefly because the teachers already had a large and effective union and saw few advantages and many risks in affiliating with a central of non-teaching professionals. During the debate, the Parti québécois took power, and many teachers began to support collaboration instead of confrontation, thereby further reducing the benefits of labour unity.

Tensions between international building-trades unions and the CLC grew during the 1970s and culminated in the suspension of twelve unions from the Congress in 1981. The major issues separating the two factions included the disproportionate voting strength of certain public sector unions in the CLC, and the QFL's admission of a group of electrical workers who had broken away from their international union. The QFL's treatment of the electrical workers appears to have been the precipitating cause of the split because other areas of difference, including the CLC voting formula, had been in existence for many years. When the three cases are considered together, it appears that although the division between public and private sector unions contributed to disunity in the Quebec labour movement, it was not necessarily a cause of the division.

Once public sector employees became union members, their behaviour varied greatly. A few groups, such as the inside postal workers or the teachers in Quebec, quickly established a pattern of militant action, while unions of nurses or white-collar workers were, in general, less inclined towards militancy. In 1980, one of the latter groups, the clerical employees in the federal government, struck for the first time. A year later, 10 000 Ontario hospital workers defied the law in a walk-out. Were these isolated incidents, or did they portend a general tendency towards greater militancy by previously restrained employee groups? In Chapter 5, Gene Swimmer attempts to answer these questions. He uses two techniques: an examination of existing data that might indicate rising militancy by public employees, and an attitude survey of office employees in three public sector jurisdictions.

Several types of data might point to trends in the militancy of public sector employers. Stoppages arising from the renewal of collective agreements are one such indicator. Since 1976, though not numerous, they have increased both absolutely and in relation to the private sector. Another indicator might be the rate of grievance initiation. Two jurisdictions — the federal government and the government of Ontario — publish such data. The number of grievances filed before the federal Public Service Staff Relations Board increased sevenfold between 1975-76 and 1981-82. Similarly, the Ontario Crown Employees Grievance Settlement Board heard 53 cases in 1977-78 and had a backlog of 231 cases by 1979. Another 324 cases were submitted to it in the 1979-80 fiscal year. The incidence of union breakaways or splits has increased in recent years, while the number of bargaining units choosing the arbitration option under the federal Public Service Staff Relations Act dropped in seven years from three-quarters of the total number of units to approximately half.

In attempting to study union militancy, Professor Swimmer distributed a questionnaire to members of clerical staff in federal and municipal installations and at a university. Using questions about the respondents' actual and hypothetical participation in strikes and other union activities, as well as about the appropriate functions of a union, he sought to determine the current degree of militancy of employees who traditionally shunned militant action. He examined replies to these questions in light of several personal variables, including age, gender, education and the proportion of the family income that was provided by the respondent. Using both objective and subjective indices of satisfaction, he also assessed job dissatisfaction, which, in general, is related to union militancy.

When asked about the desirability of strikes, respondents were unenthusiastic; 90 per cent reported that they preferred arbitration to job action. Previous involvement in strikes or associated activities was directly related to the respondents' predicted, or 'hypothetical', levels of participation. Most respondents were generally satisfied with their working conditions, though not with opportunities for advancement. Although only 10 to 30 per cent of the respondents had struck previously, about half would consider striking (or engaging in other industrial action). Surprisingly, personal characteristics were unimportant in predicting militancy, but the incidence of technological change and reorganization of work was significantly correlated to such action. Subjective measures of job satisfaction were also related to militancy measures.

Survey research which is performed only once cannot demonstrate a growth in militancy, but, taken together with other data, it does indicate a modest increase. Since dissatisfaction with career prospects is associated with militancy, a prediction that employment within most public sector agencies will afford little room for advancement in the foreseeable future may result in a greater degree of militancy among the employees affected.

Public sector strikes have attracted considerable attention, but little analysis. Douglas Smith's contribution, in Chapter 6, is the first effort to remedy this deficiency. An analysis of public sector strikes is complicated by the nature of the many services provided by public agencies and by the lack of any generally accepted measure of strike activity. But, by any measure, public employees are less strike-prone than are their private sector counterparts, and in the 1970s, about half of all the public sector strikes occurred in the health and education sectors.

For both political and theoretical reasons, it is necessary to treat carefully comparisons of strike activity in the public and private sectors. In brief, the pressures on those public sector employers facing work stoppages are likely to be political, while economic forces will predominate in the private sector. Yet, both sectors are *affected* by economic factors, especially by inflation and labour-market demand. Moreover, wage controls were a possible influence on strikes in the 1970s, as were trends in the length of contracts.

Professor Smith incorporates these factors into a series of regression equations, using several measures of strike activity. The results of this analysis show that, in contrast to private sector strikes, the frequency of public sector strikes is unaffected by unemployment rates and unanticipated inflation. Moreover, there is a secular upward trend in public sector strikes, even when all other variables are held constant. Surprisingly, the Anti-Inflation Program did not affect the frequency of strikes in either sector. The results for the amount of time lost and the number of workers involved in public sector strikes were less conclusive, but followed the same general pattern as private sector strikes. Separate regressions estimated exclusively for Quebec indicate a significantly larger time trend for that province's public sector strike activity than exists for the rest of Canada. In addition, public sector strikes were not influenced by the presence of a Parti québécois government.

Since this is the first such study of public sector strikes in Canada, and because a great variety of factors are at work in the public sector, the relative paucity of results is not unexpected. However, on a broader level, the study does show that there are substantial differences in the variables affecting strikes in the private and public sectors.

The transformation of public sector industrial relations in Canada really began in Quebec, and that province led the rest of the country in many of the developments of the 1960s and 1970s. One of the most important features of public sector labour relations in Quebec is the structure of bargaining. In Chapter 7, Gérard Hébert describes this structure as 'hypercentralization'.

The evolution of centralized bargaining was influenced by broad social and political forces in Quebec. Public sector bargaining came to Quebec as part of the Quiet Revolution, and public employees and their unions were active agents of social change, especially in the area of education and with regard to the expansion of publicly owned economic activities. When the Parti québécois was elected in 1976, it openly favoured labour. However, its policies gradually became more restrictive, culminating in the unilateral roll-back of wages early in 1983.

During the 1940s and 1950s, public sector labour relations had been governed by a regime of compulsory arbitration, in conjunction with a prohibition on strikes and a denial of public servants' rights to form unions or to bargain collectively. By 1964, the inconsistencies in these restrictions were apparent, and the unionized segments of the public sector were placed within the jurisdiction of the Quebec Labour Code. As a result, public sector employees, except for uniformed security personnel, were granted the right to strike. A year later, public servants received the rights to unionize and to bargain collectively, while, at the same time, the rate of unionization among hospital employees and the militancy of teachers were increasing. In 1966 these developments resulted in the adoption of joint bargaining for hospitals and public servants, while teachers continued to bargain separately. In 1967 the teachers' negotiations were ended by back-to-work legislation. These events constituted the first round of centralized bargaining.

Pressure for centralization came from different quarters of the various sectors of the economy. The CNTU sought direct negotiations with the government for hospital workers. However, the government took the initiative to bring negotiations for teachers to one table after a series of strikes took place in 1966 and in 1977.

By 1971 most collective agreements in the public sector, including those of public corporations, had a single expiry date. This came about as the result of a series of negotiations which constituted the second round of central bargaining. The unions involved asked the government to bargain with all of them in a Common Front. In practice, however, the number of items on the sectoral bargaining tables (for such groups as public servants and hospital workers) was too great to permit a settlement. When all of the public sector employees went on strike in March, the government enacted a back-to-work law. But strikes continued on the recommendation of the presidents of the three centrals involved, who later received prison sentences. In the meantime, Hydro-Québec employees and public servants left the Common Front, while other groups reached agreement, except for the teachers, for whom the government imposed a collective agreement.

The fourth and fifth rounds, in 1975-76 and 1978-79, were arduous, but less difficult than that of 1972. The Common Front never regained its previous unity; work stoppages were spread out over longer periods of time and never included all of the public sector simultaneously. In the fifth round, the basic agreement was achieved quickly, though sectoral negotiations did not end completely until October 1980. The provincial government was anxious to conclude bargaining in order to concentrate on the referendum on sovereignty-association. Apart from this preoccupation, negotiations grew more political as the parties addressed each other through the press as frequently as across a bargaining table.

In the fifth round, the government ensured that all of the agreements negotiated in that round would expire on 31 December 1982. As that date approached, however, provincial finances deteriorated seriously. When the government asked labour to forgo wage increases scheduled for 1982, the unions refused, and the government ordered a roll-back to take place between January and March 1983. This development was met with protest on the part of the unions, and efforts to reach a new compromise continued through the summer of 1983.

The evolution of Quebec public sector bargaining structures reflects the organization of the three major groups of actors. Public sector employees are represented by at least a dozen unions from the three centrals, as well as by several independent bodies. Because bargaining is centralized and labour is so fragmented, the central bodies are prominent in negotiations. But their members are so diverse and so numerous that solidarity is difficult. Only the threat created by irrational moves on the part of government has enabled them to maintain a semblance of unity.

Individual hospitals and school boards are the direct employers of workers in the health and education sectors. Since these employers number in the hundreds, management organizations represent them in bargaining. For each round of bargaining, these bodies form committees, which include government representatives; individual associations are left to communicate directly with their members. By the fifth round of bargaining, the Treasury Board's president had become the government's chief negotiator, in negotiations with both public servants and other public sector workers.

During the 1970s, negotiations occurred at three levels: at a central table for basic monetary items, at twenty or thirty sectoral tables for other parts of the agreements, and at local or regional tables for minor adjustments. In sectoral bargaining, one table generally sets the pattern, usually because it represents the largest number of employees. The results of this system have differed greatly for each group concerned. Employees have achieved most of their bargaining goals and have succeeded in getting real wages increased substantially. Local managers, by contrast, have lost influence in the bargaining process and tend to concede to local demands in order to avoid attracting attention from higher levels of authority. No government has survived more than two rounds of bargaining, and negotiations have become major political events. In addition, it has been necessary to enact special legislation for all of the rounds of bargaining since 1970. Finally, the amount of time that has been lost as a result of strikes has been enormous, and the public has suffered during these disputes.

Overall, the rounds of bargaining no longer resemble the process of collective bargaining. Because the impact of settlements determines much of the provincial budget, bargaining is seen as impeding responsible government. Not surprisingly, public sector bargaining has become a process of political confrontation rather than an exercise in traditional industrial relations. If other provinces adopt a more centralized process of negotiation, bargaining rights, at least in relation to monetary issues, may be lost.

Professor Hébert's analysis of a highly centralized bargaining structure stands in contrast to the work of Kurt Wetzel and Daniel Gallagher on the management organization of the hospital industry in three western provinces. Their study, contained in Chapter 8 of this volume, illustrates the experimentation that governments and employers have engaged in as part of an effort to deal with the problems of industrial relations.

In general, the structure of bargaining in Canada is decentralized, but several employers do occasionally form associations, which then negotiate on their behalf. Although the institutional and legal arrangements differ, the goal of employers' associations is to negotiate with each union a single agreement which will cover all of its members, thereby maintaining a solid front against labour and achieving economies in the costs of bargaining. As individual employers will inevitably differ on the specific goals or tactics of bargaining, the association must reconcile their differences; that is, it must practice intraorganizational bargaining. In the hospital industry, this process is complicated by the involvement of provincial governments, which are responsible for the costs of settlements and which establish the legislative framework for bargaining. In each of the provinces studied by Professors Wetzel and Gallagher, a distinct means of resolving these problems is used.

In British Columbia, virtually all hospitals belong to the Health Labour Relations Association (HLRA). Both the provincial labour code and the HLRA's constitution give the association considerable power; for example, it has the exclusive rights to negotiate and administer collective agreements on behalf of its members. A Board of Directors is elected by member hospitals, with voting weight determined by the size of each hospital's payroll. The board and the HLRA's president control bargaining, without instructions from the government. The HLRA assists hospitals in handling grievances and conducts all grievance arbitrations.

The Alberta Hospital Association (AHA) is a voluntary body which fulfills a variety of functions for its members. There is an extensive system of consultation which takes place prior to bargaining, and which does not involve government. Although the AHA negotiates for its members, there have been difficulties in maintaining a common position on ratification. A new formula for ratification might ensure unity, or, alternatively, it could lead to the development of new fissures.

Bargaining for all hospitals in Saskatchewan is conducted by the Saskatchewan Health Care Association (SHA), a general purpose body. The Association's Board of Directors is elected by an unweighted ballot, although the Employee Relations Committee affords a greater degree of influence to the larger hospitals. The committee designates the management team, with which a government observer will sit during negotiations. The observer is not a member of the management team, but is an information conduit between government and the parties. The role of the observer is to assist in obtaining settlements.

The role of government in multi-employer bargaining is also distinct in each province. In British Columbia, the government has influenced the structure of bargaining through legislation, but remains aloof from bargaining. The Alberta government has not imposed its will in either area, and this policy has contributed to an unstable climate in hospital bargaining in that province. The Saskatchewan government has influenced both the structure and conduct of bargaining, without imposing its will on the parties. British Columbia and Saskatchewan appear to have reached an accommodation between large and small hospitals, the principal subgroups in their membership. The situation in Alberta is still evolving.

The arbitration of disputes to determine the contents of collective agreements, that is, interest arbitration, is a common feature of public sector industrial relations. While the initial logic of settling wage disputes in this way is appealing, the operation of interest arbitration has proved difficult. In Chapter 9, Kenneth Swan examines some of the problems entailed in interest arbitration, and concentrates on the development of criteria to guide arbitrators and the disputing parties.

The most popular criterion for the success of public sector bargaining is 'comparability', or the principle that work in the public sector should provide compensation similar to that in the private sector. Comparability can provide a link between the market-controlled and non-market sectors of the economy. It may also provide a standard for measuring the success of public sector bargaining, and it has been used as a criterion for interest arbitration. However, insufficient attention has been given to the difficulties involved in calculating comparability precisely. In addition, several problems arise when comparability is used as a link between economic sectors. Often public sector agencies are virtually the sole employers of certain categories of workers, and evaluation systems have not proved successful in comparing the content of dissimilar jobs. Therefore, comparability is, at best, applicable to only part of the public sector.

Attempts to include the criterion of comparability in legislation have overlooked many of the technical problems that arise in its application and have created a political storm. There was a suggestion that the compensation of public sector employees might be compared with that of other public sector employees, but that no guidance should be offered for dealing with groups not employed in analogous private sector occupations. In the federal sector, such fetters on arbitration would have driven more unions to choose the conciliation-strike option. The problem of determining which parts of the private sector should be used as a basis for comparison was also ignored. In addition, the use of comparability as a standard for the success of public sector bargaining raises methodological problems, an issue discussed by Professor Gunderson in this volume.

The most important use of comparability is as a criterion in interest arbitration or in conciliators' reports. While much has been written about the behavioural aspects and other issues of interest arbitration, this chapter argues that adjudication is the wrong technique for resolving collective bargaining impasses, and that too much emphasis is placed on the criterion of comparability. In support of this claim, Professor Swan identifies two types of disputes: dissensual disputes, which involve parties with only fleeting contact with each other, and consensual disputes, in which the parties have a continuing relationship. In the latter kind of conflict, the stability of the relationship may be more important than any particular issue of principle over which the disputants are divided. Adjudication is an appropriate technique for resolving dissensual disputes, since the parties can base their positions on a set of known principles. However, mediation is seldom useful in such circumstances. By contrast, the parties to consensual disputes seek honourable settlements, rather than victories of principle. Thus mediation and compromise, *not* arbitration, are essential to the settlement of consensual disputes, which include labour disputes.

Jurisprudence, or the philosophy of law, suggests the limits of adjudication in resolving such disputes. However, since there are no clear criteria for resolving any particular dispute, arbitration awards seldom meet the tests of rationality found in judicial awards. Labour disputes are often polycentric: that is, they affect a number of groups with varying degrees of force. Yet, arbitration can deal with only a few of the repercussions of a decision on any given point in dispute. Tripartite arbitration boards once appeared to be a solution to the problems of adjudication, but efforts to combine mediation and arbitration may exceed an arbitration board's jurisdiction and violate the parties' own desire to establish the principles on which settlement will be based.

Two alternatives to interest arbitration — final-offer selection and mediation-arbitration — have been proposed. An advantage of both procedures is that they de-emphasize normative criteria, particularly the criterion of comparability. However, their application is limited. Final-offer selection is likely to work only when issues of principle are not in dispute. Mediation-arbitration will meet with significant obstacles, as the roles of arbitrator and mediator are so different that it will be difficult to combine them in the solution to a single dispute.

The thrust of Professor Swan's analysis is that it is wrong to expect any single technique to deal with all types of disputes. Specifically, arbitration should not be expected to achieve accurate normative results in every case, and the margin of error in applying the criterion of comparability can be great.

While considerable attention has been directed to the study of interest arbitration in the public sector, little work has been done on systems of grievance arbitration. Recently, however, several jurisdictions have established special panels to adjudicate grievances for public servants. In Chapter 10, Katherine Swinton analyses the jurisprudence developed in these tribunals, using precedents from the private sector as the basis of comparison.

When public servants first engaged in collective bargaining, several institutional models for grievance arbitration were adopted. Nova Scotia, British Columbia and Alberta chose variations on the private sector's system of *ad hoc* boards, while Ontario, New Brunswick, and some federal statutes created special arbitration systems with fixed panels. The latter model may have the virtue of expediting the hearing of a case and promoting consistency in awards. But in Ontario, the sheer size of the panel has reduced the continuity of decision making, and the backlog of cases in both the federal panel and in Ontario is so large that cases are slow to progress to the hearing stage. Any efforts to cope with these issues must first deal with the problem of determining whether the panels are responsible to the parties or to a wider public interest.

In both the federal public sector and Ontario, employees are granted a statutory right of access to arbitration, which constitutes a departure from private sector practice. Under this right, a bargaining agent's interest in the interpretation of a collective agreement is acknowledged, but the individual has the right to protect his critical job interests. One effect of these rights is probably an increase in the arbitral case load.

Grievances involving public servants often raise issues of jurisdiction. The scope of a grievance procedure may be circumscribed by labour legislation, by other statutes, or by the collective agreement. A number of these limitations — for instance, the ban on arbitration of the alleged unsuitability of a probationer — are justified by the merit principle, and grievances may be subject to other appeals procedures. However, jurisdictional issues arise when an employee who is terminated alleges disguised disciplinary action. The consensus of arbitrators and judges with regard to such allegations is that a release is not arbitrable, but a disguised discharge is reviewable. However, the application of this rule-of-thumb is not straightforward, for the variations of this problem are numerous. For example, an employee may act in a way which both demonstrates unsuitability and is grounds for discipline. If arbitrators take a broad view of their jurisdiction, the innocent but incompetent employee may be denied access to arbitration, while the deliberate wrongdoer may be protected. This result seems perverse, and many such cases have frustrated both the parties and neutrals.

Legality issues arise with special frequency in the public sector, as labour-relations legislation and other public service laws restrict the parties and neutrals alike. When the parties have tried to expand the authority of arbitrators by including in their collective agreements subjects that are not arbitrable by law, appellate bodies have been restrictive. Similarly, when the parties have attempted to restrict the rights of individuals to voice such grievances as those described above, the courts have held the clauses to be illegal, although a conflict has developed in the courts' efforts to interpret federal legislation. Legality issues seem unavoidable and render arbitration awards especially vulnerable to judicial review, although the standard of such review varies between jurisdictions.

In many ways, the role of arbitrators in the public and private sectors is similar, but there are special problems for those in the public sector. For instance, in one case, the illusive concept of the public interest was used to justify disciplinary action against an employee who used excessive force against a prison inmate. Industrial relations considerations of due process and fairness may support the employee's case, while the public's interest in the careful treatment of inmates may compel the arbitrator to recommend dismissal or discipline. 'Free speech' cases, as when management disciplines an employee who speaks out about real or perceived abuses related to his job, raise similar issues. In the cases decided in 1981-82, arbitrators have tried to balance the employee's duty of fidelity to his employer with the public's interest in truthful disclosure, provided that the employee in question tried and failed to raise his complaints internally. Because of the public's interest in such cases, arbitration awards and arbitrators themselves may attract attention or notoriety. As yet, there is no evidence that publicity and criticism have affected the outcome of arbitration, although they may have the effect of making some neutrals reluctant to serve in public sector cases. Legislative efforts to nullify one controversial award seem to have been counter-productive.

The issue of legality, one of the special problems of public sector grievance arbitration, can arise wherever the scope of bargaining and adjudication is restricted. In addition, constraints on adjudication can aggravate the relationship of the parties involved. Although no reform appears likely in the near future, it is probable that if the right of access to arbitration were broadened, jurisdictional complexities could be diminished. In turn, the problem of the backlog of grievances awaiting arbitration might be helped by imposing the costs of arbitration on the parties.

Perhaps the most comprehensive system for dispute settlement in Canada is contained in The School Boards and Teachers Collective Negotiations Act (Bill 100), which regulates bargaining by teachers in Ontario. In Chapter 11, Bryan Downie analyses the first seven years of experience with this Act, which gives the parties the right to strike or lock-out, but requests that they participate in various mechanisms designed to resolve their disputes without work stoppages. The Act also provides for an Education Relations Commission (ERC) to oversee its administration.

Since over two hundred sets of negotiations are conducted annually, experience under Bill 100 provides an excellent opportunity to judge the merits of a public disputes commission, a type of institution often proposed by industrial relations experts. Such commissions have recourse to several techniques to resolve disputes without work stoppages, but their very success may cause the parties to rely too heavily on them, rather than negotiate seriously to reach agreement. Several measures of the success of the ERC in avoiding this pitfall are available. One is the length of negotiations, with longer negotiations indicating a greater degree of reliance on the commission. During the first four years of operation of the bill, the average length of negotiations increased by one-third, but this figure subsequently fell by 20 per cent.

Another measure of the success of the ERC in facilitating agreement by the parties is the process of fact-finding, provided for under Bill 100. Through their reports, fact-finders are meant to inform the public of the negotiations and to exert pressure on the parties to reach a settlement. After 1979-80, the ERC discouraged excessive reliance on fact-finding and encouraged the parties to continue negotiations even if a fact-finder could be appointed. At the same time, it improved the quality of fact-finders and their reports. These changes apparently caused the parties to reach agreement more quickly than they had done earlier.

The increasing involvement of third parties in negotiations is also an indicator of the ERC's success. Seven different types of third-party intervention have been identified, and the average number of third-party appointments rose steadily in the first four years under the Act, especially for larger bargaining units. However, reliance on third parties declined sharply after 1979-80. Because of the numerous combinations of third-party intervention, Professor Downie developed a ranking system by which the degree of involvement could be measured. Again, the average rose between 1976-77 and 1979-80, and fell thereafter.

Bill 100 provides for two other unusual procedures: last-offer votes and supervised strike votes. Under these procedures, teachers are required, prior to striking, to vote on their employer's last offer. If the offer is rejected, they must vote again on whether or not to strike. Except in 1979-80, very few votes of either type have occurred, nor has the incidence of such votes increased.

The strike record under Bill 100 is a good one. Over the entire period of the Act's application, thirty-three sanctions occurred, which included both strikes and work-to-rule campaigns. Five of the strikes were ended by legislation, all in the first year of the Act and all on the advice of the ERC.

Overall, there is consensus that Bill 100 has functioned well. A commission which was set up to examine the record of dispute settlement under it recommended only minor changes in the bill.

The increases in conflict and third-party intervention that marked the early years of the system have been reversed, perhaps for reasons outside the parties' control, such as the Anti-Inflation Program, but in any case, these improvements occurred during a period in which bargaining was difficult. The ERC was also able to improve the fact-finding process through administrative changes. The major lesson to be learned from Bill 100 is that each public sector strike is unique and that an administrative tribunal must treat each one accordingly. In addition, the tribunal can encourage settlements by keeping the parties guessing about its intentions to implement the various measures available to it.

The restrictions imposed on public sector bargaining in 1982-83 attracted widespread attention and were regarded by most observers as departures from past policy. However, in Chapter 12, Leo Panitch and Don Swartz present a different point of view. They trace the development of Canadian public policy towards organized workers from the earliest legislation, in 1872, to the early 1980s, and argue that the events of 1982-83 were part of a series of restraints imposed on the rights of labour in the 1960s and 1970s.

As the capitalist state developed in Canada, there was a gradual decline in the use of coercive tactics to resolve labour unrest, and an increase, first in conciliation and, later, in the protection of the freedom of association. The most pronounced shifts in public policy occurred in the 1930s and 1940s, in response to an increase in worker militancy. The model of labour relations that evolved was one of 'free collective bargaining', which implied that capital and labour would face each other as equals, with the state acting as an umpire. But, in reality, capital still controlled vastly greater amounts of resources than did labour, and the state restricted labour's economic power through detailed labour legislation. At the same time, the beginnings of the welfare state were established.

After the Second World War, the extension of the legislative protection of labour was discontinued until the Quiet Revolution in Quebec. At that time, not only did reforms occur in that province, but Quebec Liberals in the federal government moved their party to the political left. One element of social change, which was introduced into both jurisdictions, was the granting of collective bargaining rights to public employees, although these rights were limited. The English-Canadian labour movement retained its conservative character and directed its efforts towards the development of administrative tribunals, not the mobilization of workers. The law also gave union leaders strong incentives to suppress spontaneous militancy. The result of these ideological and legislative reforms was a movement dominated by legal and administrative concerns. This movement had little interest in developing its own collective strength, especially for public sector unions, which did not face the same struggle for recognition that other unions had faced in the pre-Second World War era.

Beginning in the 1960s, the working class was infused by the post-war generation, just as universities were. These new members sparked a wave of strikes which continued into the 1970s and reached a peak just as many public employees showed a willingness to fight for improved material conditions. This new militancy was met with determined resistance by capital and the state, which were facing a deepening economic crisis at that time. Slow economic growth made impossible the concessions necessary to secure labour's consent to capitalist production systems. One of the state's responses to these conditions was to resist the bargaining power of organized labour, first through vain attempts to secure the voluntary agreement of union leaders to limit members' wage demands, and later by the use of coercive legislation. Back-to-work legislation became more common as a means of ending labour disputes.

This legislation was part of a broader pattern of *ad hoc* state policy toward labour. Actions which were legal under general legislation were declared illegal for a particular group of workers or for all workers, for a particular period of time. The frequent resort to 'emergency' legislation indicates a crisis in the old form of government. Similarly, the Anti-Inflation Program set aside the rules of labour relations for all workers.

Against this background, the events of 1982 indicate a new era in Canadian labour relations. Restrictions on public employees have been held out as examples for private employers to follow. Under the rhetoric of voluntarism, so-called temporary measures become relatively permanent, and labour is called upon to sacrifice its interests in order to preserve capitalism. In short, labour is asked to trust capitalists to act with its long-run welfare in mind, yet it is offered no guarantees that this will, in fact, occur. It is difficult to predict that a campaign against these measures by the Canadian labour movement will be effective. Nevertheless, contradictions in the government's position may well produce a more combative labour movement.

Notes

1. David K. Foot, ed., *Public Employment and Compensation in Canada: Myths and Realities* (Toronto: Butterworth for The Institute for Research on Public Policy, 1978); Meyer W. Bucovetsky, ed., *Studies in Public Employment and Compensation in Canada* (Toronto: Butterworth for The Institute for Research on Public Policy, 1979); Richard M. Bird, *The Growth of Public Employment in Canada* (Montreal: The Institute for Research on Public Policy, 1979); and David K. Foot, ed., *Public Employment in Canada: Statistical Series* (Toronto: Butterworth for The Institute for Research on Public Policy, 1979).
2. Jacob Finkelman and Shirley B. Goldenberg, *Collective Bargaining in the Public Service: The Federal Experience in Canada* (Montreal: The Institute for Research on Public Policy, 1983).

Abrégé

Le présent oeuvre fait partie de plusieurs études sur le secteur public commanditées par l'Institut de recherches politiques. Consacrés à l'évolution de l'emploi et à divers aspects de la rémunération dans le secteur public, les quatre premiers ouvrages de cette série ont été publiés conjointement avec l'Université de Toronto. L'Institut a également commandé une étude très documentée sur la fonction publique fédérale, qui a paru en novembre 1983. Ses auteurs, Jacob Finkelman et Shirley B. Goldenberg, décrivent les débuts et la progression de la négociation collective chez les fonctionnaires fédéraux, et préparent actuellement un deuxième dossier sur le sujet, visant cette fois les administrations provinciales.

Le document que nous présentons analyse le rôle de la négociation collective dans le secteur public fédéral et son mécanisme. Douze chapitres clarifient des questions importantes pour les relations de travail dans le secteur public et qui n'avaient pas été assez approfondies ailleurs. Un dernier chapitre fait la synthèse et examine l'avenir. Nous n'avions pas l'intention de faire un travail exhaustif, aussi aucun chapitre ne traite-t-il directement de la fonction publique fédérale. Par contre, ce document examine certaines composantes des relations de travail aux autres paliers de gouvernement, analysant notamment des organismes publics comme les hôpitaux. Les sujets ont été retenus en fonction de deux critères : leur pertinence pour les professionnels et leur intérêt théorique.

La comparaison des rémunérations a peut-être été la question qui a suscité le plus de controverses dans le secteur public. En effet, quand le système des ententes par consultation a été remplacé par la négociation collective, les augmentations salariales ont fait l'objet

d'une grande publicité, alors qu'elles étaient autrefois considérées comme des questions de pure routine administrative. En cherchant activement à s'affirmer à la table de négociation, les syndicats ont souvent présenté leurs revendications en faisant le plus de battage publicitaire possible. Comme dans certaines catégories d'emploi tout le monde reconnaissait que les fonctionnaires accusaient un retard par rapport à leurs homologues du privé et qu'il fallait améliorer sensiblement leur situation, des augmentations — parfois substantielles — ont été accordées en pleine période inflationniste, attirant l'attention du public et suscitant son inquiétude. Au milieu des années 1970, les employeurs du secteur privé déclaraient que la fonction publique payait mieux son personnel que l'industrie et le commerce.

Au chapitre 1 de ce dossier, Morley Gunderson fait état de nombreuses études antérieures sur ce thème, dont beaucoup menées par lui. Considérant l'éventail des emplois et le jeu de l'offre et de la demande dans le secteur public, il est difficile d'établir exactement ce qui se fait dans l'autre camp. Le professeur Gunderson utilise plusieurs techniques d'analyse.

Pour comparer les salaires dans les secteurs public et privé au Canada, il faudrait commencer par considérer chaque secteur comme une industrie. D'après la théorie économique, à la longue, la concurrence devrait supprimer les écarts salariaux d'une industrie à l'autre, exception faite des différences tenant à des éléments non monétaires, telle la sécurité d'emploi ou les avantages sociaux. M. Gunderson estime qu'en général ces éléments, la stabilité en particulier, l'emportent dans le secteur public. Donc les avantages salariaux globaux devront être plus élevés dans le secteur privé. Pourtant, plusieurs facteurs peuvent fausser le modèle fondé sur la concurrence, comme les pressions politiques exercées par des employés, le caractère essentiel de certains services (notamment la police et les pompiers), la syndicalisation, des mesures spéciales de limitation des salaires dans le secteur public et le caractère quasi-exclusif de certains emplois publics. Compte tenu de ces facteurs, le secteur public semble offrir une rétribution un peu supérieure, ce qui reste pourtant à prouver avec précision.

Il existe trois moyens de mesurer les écarts salariaux : la comparaison par catégorie d'emploi, l'analyse économétrique des équations salariales pour un employé célibataire et le calcul macroéconomique des équations globales. Le plus simple est de comparer les échelles salariales d'employés occupant des postes analogues dans les deux secteurs. Dans ce cas, il est inutile de tenir compte des différences d'éducation, d'expérience ou d'autres facteurs personnels. On a procédé de cette façon pour une série de données allant de 1952 à 1977. Pour les années postérieures, on a constaté que les salaires étaient de 1 à 15 pour cent supérieurs dans le secteur public, et que les principaux bénéficiaires étaient les femmes et les employés à faibles revenus. Cet avantage est apparu dans les années 1960, mais s'est un peu atténué la décennie suivante.

Cette formule présente pourtant un inconvénient majeur, puisque les mêmes titres d'emploi ne recouvrent pas forcément le même travail. Pour pallier cet inconvénient, les chercheurs ont comparé des personnes des deux secteurs, dont les études, la formation, l'expérience et les autres caractéristiques influant sur la rémunération étaient identiques. Selon le recensement de 1970, après suppression des différences qualitatives des deux groupes, dans le secteur public, les hommes gagnaient 6,2 pour cent de plus et les femmes, 8,6 pour cent.

La troisième méthode consiste à évaluer les équations salariales globales au moyen de variables macro-économiques comme le chômage et l'inflation. Bien que plusieurs études de ce genre aient abouti à des résultats divergents, un point a fait l'unanimité : dans le secteur public, les salaires obéissent incontestablement aux lois du marché.

Les travaux que nous venons de résumer visaient des groupes nombreux. Or, la controverse sur les différences entre secteur public et secteur privé a soulevé certains problèmes, dont l'importance des avantages sociaux, la rémunération des cadres, l'influence de la syndicalisation, la limitation des augmentations salariales et les conséquences des décisions arbitrales.

On manque de renseignements complets sur la valeur relative des avantages sociaux dans les deux secteurs. Compte tenu des éléments entraînant des frais directs (par exemple, les retraites ou les vacances), on arrive à la conclusion que les employés reçoivent un traitement comparable. Mais des postes qui n'entrent pas dans le calcul des coûts directs (par exemple, la sécurité de l'emploi ou l'indexation des retraites), semblent faire pencher la balance en faveur du secteur public. En revanche, il ne fait aucun doute qu'aux échelons supérieurs, les cadres sont mieux rémunérés dans le secteur privé, le décalage dans l'administration s'expliquant surtout par des raisons politiques, quoiqu'on ignore la cause exacte de cet état de fait ou les répercussions éventuelles que cela entraîne sur les cadres concernés.

Le poids des syndicats entre aussi certainement en compte. Presque tout le secteur public est maintenant syndiqué, or, si l'on en juge d'après le secteur privé, tout permet de croire que les syndicats sont capables de faire monter les enchères plus haut. Mais comme les syndicats des deux secteurs évoluent dans un milieu très différent, il faut les analyser distinctement. On manque de données suffisantes à cet égard pour le Canada, mais il est certain que c'est en grande partie aux syndicats qu'il faut attribuer l'avantage salarial de l'administration publique. Les résultats de recherches entreprises aux États-Unis ne laissent aucun doute à cet égard; les syndicats sont responsables d'une avance de 5 pour cent dans l'administration publique.

Pour terminer, la limitation des salaires et l'arbitrage jouent un rôle non négligeable dans la rémunération. En 1982, au Canada, la plupart des administrations ont limité sous une forme ou une autre les salaires des fonctionnaires. Au moment où nous rédigeons ces lignes, on ne connaît pas encore les effets exacts de ces restrictions. Signalons toutefois que le programme de lutte contre l'inflation en place de 1975 à 1978 a touché bien davantage le secteur public que le reste de l'économie. L'influence de l'arbitrage est aussi certainement un élément important, puisqu'il sert pour résoudre de nombreux différends salariaux au Canada quand la négociation collective n'est pas assujettie à une limitation des salaires. Apparemment, les décisions qui sont rendues dans ce cadre donnent un léger avantage salarial, mais cette conclusion est proposée sous toutes réserves et ne vaut pas forcément pour tous les systèmes d'arbitrage.

L'analyse économique révèle que l'écart controversé n'est pas immense et pourrait commencer déjà à se réduire. De plus, les barèmes de rémunération qui ont été en vigueur au fil des ans varient énormément entre divers groupes du secteur public. Mais les relations de travail n'y sont encore qu'embryonnaires; l'on pourrait arriver à des conclusions très différentes à l'avenir.

La plupart des études relatives à la rémunération dans l'administration publique s'appuyaient sur des données globales. Au chapitre 2, E.G. Fisher innove en examinant les déterminants salariaux des policiers et des pompiers. Il y a eu très peu de travaux sur ce sujet au Canada, mais on constate qu'aux États-Unis la traditionnelle parité salariale entre les deux groupes commence à évoluer sous l'influence du marché de l'emploi et des forces politiques. Le professeur Fisher s'arrête à la parité avant d'analyser d'autres facteurs pertinents.

Source de préoccupation pour la partie patronale bien avant l'avènement de la négociation collective, la comparaison des salaires des policiers et des pompiers a suscité plus de contestations depuis l'apparition du syndicalisme et de l'arbitrage. Les parties engagées dans les négociations (et les arbitres) ont utilisé divers critères pour déterminer les rémunérations respectives des deux catégories. Mais en général, les conventions collectives s'inspirent des règlements (ou décisions arbitrales) conclus dans une ou plusieurs des trois principales villes du pays. On se réfère fréquemment aux contrats qu'ont obtenus des employés travaillant dans la même catégorie de service. Par exemple, les pompiers d'une ville chercheront à avoir les mêmes échelles salariales que leurs collègues d'une autre ville. Dans la majorité des municipalités, la parité est une exception. Le salaire des pompiers représente en moyenne environ 95 pour cent de celui des policiers, la fourchette se situant entre 76 et 106 pour cent. Cet écart tient en partie au calendrier des règlements. Autrement dit, un groupe peut parvenir à un accord avant un autre, ce qui se traduit par un décalage de courte durée dans le montant des rétributions. En 1981 et 1982, plusieurs règlements capitaux ont effectivement accordé la parité aux pompiers.

La rémunération relative des deux groupes obéit aux lois du marché. M. Fisher a constaté que les pompiers attirent plus de recrues que les policiers tant que le salaire représente 90 pour cent de celui de la police. Au-dessous de ce seuil, les candidatures s'équilibrent. Signalons que les policiers donnent plus facilement leur démission que les pompiers.

En dehors des salaires, des différends sérieux ont surgi à propos des conditions de travail. Du côté de la police, par exemple, il y a eu la question des patrouilles à deux ou des postes de douze heures. Mais selon les répondants de l'enquête, la rémunération se plaçait en tête de liste, quoique les policiers prévoient qu'à l'avenir les horaires pourraient bien devenir une question majeure. Les pompiers, qui risquent de perdre leur emploi à cause des robots ou d'autres dispositifs mécaniques, ont prédit que la sécurité d'emploi tiendrait une grande place dans les futures rondes de négociation.

Dans l'ensemble, la rémunération des deux groupes peut présenter des écarts relatifs considérables. Les structures de négociation sont fragmentées, quoique les conventions soient comparées. Le marché, ainsi que les facteurs politiques et technologiques diffèrent. L'année 1981-1982 a été marqée par plusieurs grèves et décisions arbitrales que la presse a largement couvertes. Pour ces raisons, l'interdépendance salariale et les relations de travail en général vont probablement être une source de conflits dans ces deux groupes.

De 1961 à 1981, plus d'un million d'adhérents ont grossi les rangs des syndicats du secteur public. Avant, ils ne pesaient pas lourd dans le mouvement syndical canadien, mais en 1981, ils représentaient près de 40 pour cent de l'effectif total. On ne connaît pas au juste les causes ou les conséquences de cet essor, pas plus qu'il n'existe d'explication à ce phénomène au Canada. Les équations économétriques qui rendent compte de l'expansion des syndicats en général ne donnent rien pour le secteur public.

Au chapitre 3, Joseph Rose étudie pour la première fois cette évolution dans le mouvement syndical. Malgré le manque de documentation, on sait que de nombreux syndicats du secteur public ont commencé comme associations d'employés qui ont mené des consultations et exercé des pressions auprès de la direction et des législateurs, puis se sont transformées dans les années 60 pour diverses raisons : mécontentement contre les consultations, détérioration du pouvoir d'achat des fonctionnaires par rapport au secteur privé et nouvelle politique des pouvoirs publics favorable à la négociation collective.

Cette progression n'a pas été uniforme. Dans la fonction publique fédérale, l'expansion s'est concentrée de 1967 à 1970. C'est à cette époque que les associations existantes se sont transformées et que les syndicats, anciens ou nouveaux, ont fait accréditer de nouveaux groupes d'employés. Les effectifs ont crû avant l'adoption de la *Loi sur les relations de travail dans la Fonction publique*. Signalons d'ailleurs que les gestionnaires ne se sont pratiquement jamais opposés à ce mouvement. Du côté provincial, le rythme n'a pas été aussi rapide, et a un peu différé pour chaque province, le point culminant de cette ascension se situant à la fin des années 1970. L'expansion a découlé, là aussi, de la transformation des associations.

Contrairement aux travailleurs des autres paliers de l'administration, les employés municipaux bénéficiaient déjà depuis longtemps d'une protection légale pour négocier en vertu de la législation applicable dans le secteur privé. L'expansion avait débuté dans les années 1950 pour se continuer presque sans relâche jusqu'en 1981. La syndicalisation a d'abord pris dans les grandes municipalités, puis a atteint des villes moins importantes et a connu un regain avec l'accroissement de l'emploi et les clauses garantissant la sécurité syndicale dans les conventions collectives.

En ce qui concerne la santé et l'enseignement, les chiffres connus visent surtout les professionnels. Bien que leurs associations ne datent pas d'hier, les infirmières et les enseignants n'ont recouru à la négociation collective que dans les années 1970. Pour des raisons juridiques, les infirmières ont créé des syndicats distincts, tandis que les associations d'enseignants ont ajouté la négociation à leur mandat. À la fin de cette période, ces transformations étaient en grande partie achevées et les effectifs stabilisés.

Dans le secteur public, les syndicats ont évolué différemment entre eux, mais aussi par rapport à ceux du secteur privé. Ainsi, les fusions ont joué un rôle important dans la formation des grands syndicats publics. Il est permis de se demander si leur avenir sera influencé par l'expansion antérieure et par la conjoncture actuelle.

L'avènement du syndicalisme dans le secteur public a donné une impulsion remarquable au mouvement ouvrier, notamment dans les années 1960 et 1970, aussi les organes en place ont-ils en général bien accueilli ce phénomène. Comme le fait remarquer le professeur Rose, la situation et la progression des syndicats publics n'avaient rien à voir avec celles du secteur privé. Qui plus est, les revendications des fonctionnaires rencontrent une résistance chez contribuables, éventuellement eux-mêmes syndiqués. En se superposant aux problèmes géographiques, idéologiques et linguistiques — sources traditionnelles de division dans le mouvement syndical canadien — ces éléments ont créé de nouvelles tensions au sein des centrales. C'est particulièrement manifeste au Québec, où les centrales concurrentes existaient déjà bien avant la syndicalisation des fonctionnaires.

Au chapitre 4, James Thwaites étudie l'importance des distinctions entre secteurs public et privé lors de l'apparition de divisions au Québec et analyse trois événements majeurs intervenus entre 1972 et 1982. Au printemps 1972, les trois centrales québécoises — la Confédération des syndicats nationaux (CSN), la Fédération des travailleurs du Québec (FTQ) et la Centrale des enseignants du Québec, connue sous les initiales CEQ — formaient un front commun pour négocier avec le gouvernement provincial. Plus tard la même année, les fédérations du vêtement, du textile et de la construction quittaient la CSN pour créer un organe rival, la Centrale des syndicats démocratiques (CSD) qui est restée relativement apolitique et hostile aux intellectuels de gauche dirigeant la CSN. Pourtant, cette dernière a continué à faire porter tous ses efforts sur les négociations dans le secteur public et les débats politiques dans la province. Mais, en 1971, une fédération de fonctionnaires provinciaux se séparait de la CSN. Si l'on se penche sur les deux scissions, on s'aperçoit que l'une des causes de ce phénomène est la forte centralisation de la CSN, qui donnait un rôle prééminent au personnel du siège social et accentuait l'orientation à gauche. Autrement dit, ces divisions étaient plus idéologiques que sectorielles.

Après ces départs, de 1976 à 1978, la CSN a engagé des pourparlers avec le CEQ pour d'éventuelles fusions. Cela aurait été un atout indéniable pour la CSN si elle avait réussi à attirer 85 000 nouveaux membres, mais la question de l'unité suscita un débat passionné à la CEQ et, en fin de compte, la fusion ne se fit pas, principalement parce que les enseignants possédaient déjà un syndicat fort et comptant de nombreux adhérents. Dans ces conditions, ils voyaient mal les intérêts qu'ils pourraient tirer de ce regroupement, mais étaient très conscients des nombreux risques possibles s'ils s'affiliaient à une centrale de professionnels non enseignants. Pendant les tractations, le Parti québécois accédait au pouvoir, et de nombreux enseignants commencèrent à prôner la collaboration plus que la confrontation, ce qui réduisait d'autant les avantages de l'unité syndicale.

Pendant les années 1970, des tensions de plus en plus fortes surgirent entre les syndicats internationaux de la construction et le Congrès du travail du Canada (CTC), pour culminer avec la suspension de douze syndicats au CTC, en 1981. Les principaux dossiers qui éloignaient les deux factions comprenaient entre autres le poids électoral disproportionné de certains syndicats du secteur public au CTC et l'admission par le Congrès du travail du Québec d'un groupe d'électriciens qui s'étaient désaffiliés d'un syndicat international. Ce fut apparemment la cause première de la scission, étant donné que les autres points de désaccord, et notamment la formule de vote, existaient depuis de nombreuses années. Si l'on rapproche les trois affaires, on constate que si la division entre les syndicats publics et privés a contribué à la discorde dans le mouvement syndical québécois, elle n'a pas nécessairement provoqué la rupture.

Lorsqu'ils se sont syndiqués, les fonctionnaires n'ont pas tous adopté la même attitude. Quelques groupes, comme certaines catégories d'employés des postes ou les enseignants au Québec, sont très rapidement devenus militants, alors que les syndicats d'infirmières ou de cols blancs étaient souvent moins portés à l'activisme. En 1980, l'un de ces derniers groupes, les commis de l'administration fédérale, se sont mis en grève pour la première fois. Un an plus tard, 10 000 syndiqués des hôpitaux de l'Ontario ont enfreint la loi en débrayant. S'agit-il d'incidents isolés, ou d'un plus grand militantisme de la part d'employés à qui on a imposé des restrictions? Au chapitre 5, Gene Swimmer s'efforce de répondre à cette question par deux moyens. Il commence par étudier les éléments connus susceptibles de mettre en évidence la montée du militantisme dans le secteur public, puis enquête sur les employés de bureau dans trois administrations publiques.

Plusieurs indices pourraient confirmer un début de radicalisation du mouvement. Les arrêts de travail consécutifs au renouvellement des conventions collectives sont révélateurs à cet égard. Bien que peu nombreux depuis 1976, ils ont augmenté en chiffres absolus et par rapport au secteur privé. Autre élément de preuve, la multiplication des griefs. Deux instances — le gouvernement fédéral et celui de l'Ontario — publient ce genre de données. Les griefs déposés devant la Commission des relations de travail dans la Fonction publique se sont multipliés par sept de 1975–1976 à 1981–1982. Parallèlement, la Commission ontarienne de règlement des griefs des employés de la Couronne a classé 53 affaires en 1977–1978, accumulé 231 dossiers en instance en 1979 et reçu 324 nouveaux griefs en 1979–1980. Les désaffiliations ou les scissions Syndicales ont crû ces dernières années, et environ la moitié seulement des unités de négociation optent désormais pour l'arbitrage en vertu de la *Loi sur les relations de travail dans la Fonction publique*, alors qu'il y a sept ans, les trois quarts retenaient cette formule.

Le professeur Swimmer a interrogé des commis employés dans des administrations fédérales et municipales ainsi que dans une université. Son questionnaire portait sur la participation effective ou possible des répondants aux grèves et autres activités syndicales, et demandait le rôle que devait jouer un syndicat, cela afin de sonder le militantisme d'un groupe traditionnellement modéré. Tenant compte de plusieurs variables personnelles, dont l'âge, le sexe, l'éducation et le revenu familial, il a évalué — à l'aide d'indices objectifs et subjectifs du degré de satisfaction — le mécontentement professionnel. Celui-ci est en général directement lié au militantisme syndical.

Voici en gros les constations de M. Swimmer à propos des grèves. Les répondants ne les recherchent pas : 90 pour cent declarent qu'ils préfèrent l'arbitrage à l'action directe. Ceux qui évoquent la possibilité de participer à une grève ou à autre activité du genre sont ceux qui en ont déjà faites. Dans l'ensemble satisfaits de leurs conditions de travail, ils se plaignent pourtant des perspectives d'avancement. Bient que 10 à 30 pour cent seulement aient participé à une grève, près de la moitié indiquent qu'ils pourraient envisager un arrêt de travail (ou autre activité du genre). Fait étonnant, si les caractéristiques personnelles ne changent rien aux données du problème, les transformations technologiques et la réorganisation du travail jouent un rôle clé. Il existe aussi un certain lien entre les mesures subjectives de la satisfaction professionnelle et le militantisme.

Une seule enquête ne peut prouver la montée du militantisme, mais, combinée à d'autres données, elle en révèle indubitablement une augmentation modérée. S'il est acquis que le mécontentement vis-à-vis des possibilités d'avancement va de pair avec le militantisme, il faut peut-être s'attendre dans un proche avenir à ce que les commis deviennent plus combatifs si on prévoit un horizon assez bouché dans la plupart des organismes du secteur public.

Si elles ont fait grand bruit, les grèves du secteur public ont été peu étudiées. Les recherches de Douglas Smith, au chapitre 6, constituent donc une première pour essayer de combler cette lacune. Ces travaux sont complexes en raisision de la nature des nombreux services qu'assurent les organismes publics et de l'absence d'une mesure des formes de grève qui soit reconnue par tous. Et pourtant, les employés du secteur public sont beaucoup moins enclins — et de loin — à débrayer que les travailleurs du secteur privé. D'ailleurs, dans les années 1970, près de la moitié des grèves publiques étaient cantonnées à la santé et à l'éducation.

Pour des raisons politiques et théoriques, il faut faire très attention si l'on veut effectuer des comparaisons entre le public et le privé. En effet, les employeurs du secteur public dont le personnel se met en grève subissent probablement des pressions politiques alors que, dans le privé, les forces économiques l'emportent. Et pourtant, dans les deux cas, des facteurs économiques, dont surtout l'inflation et le marché du travail, imposent leurs contraintes. Qui plus est, les limitations salariales ont pu jouer un rôle dans les années 1970, sans parler des dates d'échéance des conventions.

Le professeur Smith intègre ces facteurs dans une série d'équations de régression en utilisant plusieurs mesures de quantification des grèves. Il conclut que, contrairement aux débrayages du privé, la fréquence des grèves du secteur public n'est fonction ni du chômage ni du taux d'inflation. Ces mouvements s'intensifient, même si les autres variables restent constantes. Il est étonnant que le Programme de lutte contre l'inflation n'ait pas partout provoqué une floraison de grèves. Ces recherches n'ont pas donné de résultats aussi probants en ce qui concerne les journées de travail perdues ou les effectifs lancés dans l'action. Néanmoins, les choses se sont passées de la même façon que dans le secteur privé. Des régressions distinctes, calculées exclusivement pour le Québec, indiquent que, dans le secteur public, les grèves durent plus longtemps qu'ailleurs au Canada. Soit dit en passant, la présence d'un gouvernement péquiste n'a pas changé la situation.

Comme il s'agit ici de la première étude du genre et que de nombreux facteurs entrent en jeu, il ne faut pas s'attendre à des résultats extraordinaires. Globalement, elle révélera l'existence de différences appréciables dans les variables concernant les grèves dans les secteurs privé et public.

La métamorphose des relations de travail dans le secteur public a vraiment démarré dans la province de Québec, qui a donné le ton sur bien des points au cours des années 1960 et 1970. L'une des grandes particularités du Québec à cet égard tient à la structure de la négociation. Au chapitre 7, Gérard Hébert la définit d'un seul trait : l'«hypercentralisation».

L'évolution de la négociation centralisée a subi l'influence de vastes courants socio-politiques au Québec, où, pour le secteur public, ce phénomène est apparu pendant la Révolution tranquille. D'ailleurs, les employés et leurs syndicats ont contribué activement au changement social, surtout pour l'éducation et l'essor des activités économiques publiques. À sont accession au pouvoir, en 1976, le Parti québécois a ouvertement favorisé les travailleurs. Mais il a progressivement mis en place des mesures restrictives, pour en arriver à la réduction unilatérale des salaires au début de 1983.

Dans les années 1940 et 1950, l'arbitrage était obligatoire. Les grèves étaient interdites, les fonctionnaires n'avaient pas le droit de former des syndicats ou de négocier collectivement. En 1964, les autorités ont compris les contradictions d'un tel système, et les segments syndiqués du secteur public ont désormais relevé du Code québécois du travail. Résultat, le droit de grève a été accordé, sauf pour le personnel de sécurité en uniforme. L'année suivante, les fonctionnaires ont été autorisés à se syndiquer et à entreprendre des négociations collectives. Pendant ce temps, la syndicalisation du personnel hospitalier et le militantisme des enseignants croissaient. En 1966, ces nouveaux éléments ont permis une négociation conjointe pour le personnel hospitalier et les fonctionnaires. Les enseignants ont continué à faire cavalier seul, mais en 1967, les pourparlers qu'ils avaient entamés se sont terminés par une loi leur ordonnant de reprendre le travail. Ces événements ont constitué la première ronde de négociations centralisées.

Les appels à la centralisation sont venus de différentes couches de l'économie. La CSN a cherché à négocier directement avec le gouvernement pour le personnel hospitalier; en revanche, les pouvoirs publics ont pris l'initiative de convoquer les enseignants à la table de négociation après une série de grèves lancées en 1966 et 1977.

En 1971, la plupart des conventions collectives du secteur public, y compris celles des entreprises publiques, expiraient à la même date. C'était la conséquence de la seconde ronde de négociations centralisées. Les syndicats ont demandé au gouvernement de traiter collectivement avec le Front commun qu'ils avaient formé. Dans la pratique, il y avait trop de points en litige dans les négociations sectorielles (pour des groupes comme les fonctionnaires et le personnel hospitalier) pour une possibilité de règlement. À l'occasion d'une grève générale des employés du secteur public, en mars, le gouvernement votait une loi sur le retour au travail. Mais le mouvement de grève s'est poursuivi à l'instigation des présidents des trois centrales concernées, qui ont été ultérieurement condamnés à des peines de prison. Dans l'intervalle, les employés d'Hydro-Québec et les fonctionnaires quittaient le Front commun, pendant que d'autres groupes parvenaient à un accord, à l'exception des enseignants, auxquels le gouvernement imposait une convention collective.

Les quatrième et cinquième rondes (1975–1976 et 1978–1979) ont été ardues, moins pourtant que celle de 1972. Le Front commun n'a jamais retrouvé son unité. De longue durée, les débrayages n'ont jamais englobé simultanément tout le secteur public. À la cinquième ronde, si les négociations sectorielles ont traîné jusqu'en octobre 1980, les parties sont parvenues rapidement à un accord de base, parce que le gouvernement de la province voulait avoir les mains libres pour le référendum sur la souveraineté-association. Pour le reste, les discussions se sont politisées au fur et à mesure que les parties prenaient l'habitude d'utiliser la presse autant que la table de négociation pour s'adresser la parole.

À la cinquième ronde, le gouvernement provincial s'est arrangé pour que toutes les conventions négociées viennent à expiration le 31 décembre 1982. Mais au moment où l'échéance approchait, ses finances se sont fortement détériorées. Quand les pouvoirs publics demandèrent aux syndicats de renoncer aux augmentations salariales prévues pour 1982, ils essuyèrent un refus. Ils ordonnèrent donc qu'une réduction entre en vigueur entre janvier et mars 1983. Les syndicats protestèrent et les discussions à la recherche d'un nouveau compromis se poursuivirent tout l'été 1983.

L'évolution des structures de négociation québécoises du secteur public reflète l'organisation des trois grands groupes. Les employés sont représentés par au moins une douzaine de syndicats affiliés à ces trois centrales et par plusieurs organismes indépendants. Étant donné le regoupement des négociations et l'éparpillement des syndicats, les centrales jouent un rôle prédominant dans les discussions. Mais leurs membres sont si disparates et si nombreux que la solidarité n'est pas chose facile. Seule la crainte de mouvements unilatéraux du gouvernement a permis de conserver un semblant d'unité.

Dans les secteurs de la santé et de l'enseignement, les employeurs sont les hôpitaux et les conseils scolaires. Comme ils se chiffrent par centaines, des associations les représentent aux négociations et forment des comités où siègent des porte-parole du gouvernement. Les associations individuelles communiquent directement avec leurs membres. À la cinquième ronde de négociations, le négociateur en chef du gouvernement dans les pourparlers avec les fonctionnaires et d'autres travailleurs du secteur public était le président du Conseil du Trésor.

Pendant les années 70, les discussions se déroulaient à trois niveaux : à une table centrale pour les questions monétaires de base, à vingt ou trente tables sectorielles pour les autres clauses, et au niveau local ou régional pour les points de détail. Dans les négociations sectorielles, une table ou une autre donne généralement le ton, la plupart du temps celle qui représente le plus grand nombre d'employés. Ce système a donné des résultats inégaux. Pour leur part, les syndiqués ont obtenu la plupart de ce qu'ils voulaient, notamment des augmentations salariales réelles substantielles. En revanche, à l'échelon local, la partie patronale, dont l'influence a décru, a fréquemment satisfait aux revendications locales afin d'éviter d'attirer l'attention des instances supérieures. Aucun gouvernement n'a survécu à plus de deux rondes de négociations, celles-ci devenant des événements majeurs de la vie politique. Qui plus est, pendant cette période, le Parlement a dû voter systématiquement des lois spéciales. Finalement, le nombre de journées de travail perdues à cause des grèves a été énorme et le public a pâti de ces conflits.

Aujourd'hui, dans l'ensemble, la situation est tout autre. Comme les provinces doivent tenir compte des règlements salariaux pour préparer leur budget, il ne faut pas s'étonner que, pour un gouvernement responsable, la négociation soit perçue comme un obstacle et soit synonyme d'affrontement politique au lieu d'être un simple instrument des relations de travail. Si d'autres provinces adoptent la même formule de négociation que le Québec, on assistera au recul des droits acquis, du moins pour les questions financières.

Les recherches du professeur Hébert sur l'hypercentralisation constrastent avec les travaux de Kurt Wetzel et Daniel Gallagher qui visent l'organisation hospitalière dans trois provinces de l'Ouest. Au chapitre 8, ces spécialistes rendent compte de l'expérience tentée par les gouvernements et les employeurs pour s'attaquer au problème des relations de travail.

Au Canada, la structure des négociations est en général décentralisée, mais plusieurs employeurs se regroupent parfois en associations chargées d'agir en leur nom. Malgré les différences juridico-institutionnelles, les associations ont pour mission de négocier avec chaque syndicat une seule convention pour la totalité des membres. De cette façon, la partie patronale oppose un front uni et fait des économies. Comme les objectifs ou les tactiques à utiliser pour les négociations ne font pas forcément l'unanimité, l'association doit trouver un compromis en procédant à des consultations internes. Dans le secteur hospitalier, le processus est plus complexe à cause des gouvernements provinciaux dont relève le côut des règlements et qui établissent le cadre législatif de la négociation. Les provinces étudiées par Wetzel et Gallagher utilisent des instruments différents pour résoudre ces difficultés.

En Colombie-Britannique, presque tous les hôpitaux sont affiliés à la *Health Labour Relations Association* (HLRA) qui, en vertu du code provincial du travail et des statuts de cet organisme, a des pouvoirs considérables. C'est ainsi que l'Association a le droit exclusif de négocier et d'administrer les conventions collectives au nom de ses membres. Les hôpitaux affiliés élisent un conseil d'administration, le poids du vote étant fonction des employés. Le conseil et le président de la HLRA ont le dernier mot pour les négociations et ne reçoivent aucune instruction du gouvernement. L'Association aide les hôpitaux à régler les griefs et assure l'arbitrage.

Organisme volontaire qui rend de nombreux services à ses membres, *l'Alberta Hospital Association* (AHA) fait des consultations poussées avant les négociations, sans que le gouvernement y soit représenté. Malgré son mandat, il a parfois été difficile à l'AHA d'arrêter une position commune lors de la ratification. Une nouvelle formule pourrait assurer l'unité ou, au contraire, accentuer les divergences.

En Saskatchewan, il existe un organisme non spécifique, la *Saskatchewan Health Care Association* (SHA), dont le conseil d'administration est élu par suffrage simple. Les grands hôpitaux bénéficient cependant d'une plus grande influence par le biais de l'*Employee Relations Committee*, qui désigne l'équipe de négociation. Un observateur du gouvernement chargé d'assurer les communications et de faciliter les règlements assiste aux séances de l'équipe sans intervenir directement.

Le rôle du gouvernement dans les négociations auxquelles participent plusieurs employeurs diffère selon les provinces. En Colombie-Britannique, par exemple, les pouvoirs publics ont modifié le cadre des négociations par la législation, mais ne participent pas à leur déroulement. Le gouvernement albertain, lui, n'a pas imposé ses vues, ce qui crée un réel climat d'incertitude. Pour sa part, le gouvernement de la Saskatchewan a influé sur le cadre et la tenue des négociations, mais sans imposer sa volonté aux parties. Enfin, alors que la Colombie-Britannique et la Saskatchewan semblent avoir établi une distinction entre grands et petits hôpitaux, qui forment les principaux sous-groupes, en Alberta, la situation n'est pas encore stabilisée.

L'arbitrage des différends (arbitrage des conflits d'intérêts) est une pratique inhérente à l'élaboration des conventions collectives dans le secteur public. Si elle paraît attrayante pour le règlement des conflits salariaux, elle est difficile à manier. Au chapitre 9, Kenneth Swan examine un certain nombre des problèmes qui se posent, puis recherche les critères à proposer aux arbitres et aux parties en cause.

Il analyse notamment la « comparabilité » entre la rémunération dans les secteurs public et privé, qui peut servir de trait d'union entre les secteurs économiques soumis aux lois du marché et les autres. Très prôné, ce critère peut aussi mesurer le succès des négociations et servir de point de référence pour l'arbitrage des conflits d'intérêts. Plusieurs difficultés existent pourtant. D'abord, la complexité des calculs, ensuite, la comparaison de deux secteurs économiques différents. Les organismes publics sont en effet bien souvent les seuls à employer certaines catégories de travailleurs et les systèmes d'évaluation ne permettent pas de comparer des emplois dissemblables. Au mieux, la comparabilité ne vaudrait donc que pour une partie du secteur public.

On a cherché à en faire une obligation legale, mais, en sous-estimant un grand nombre de difficultés techniques d'application, ce qui a déchaîné une tempête politique. D'aucuns ont proposé de comparer la rémunération des employés du secteur public à celle d'autres employés du même secteur, et de se passer de repères pour les groupes qui n'existent pas dans le privé. Dans l'administration fédérale, ces contraintes auraient incité davantage de syndicats à opter pour la conciliation-grève. Les tenants de la comparabilité ont par ailleurs délibérément omis un autre obstacle de taille, le choix des industries privées devant servir aux comparaisons. Enfin, l'adoption de cette formule pour évaluer le succès des négociations dans le secteur public soulève des questions de méthode, que le professeur Gunderson examine dans le présent volume.

La comparabilité sert principalement de critère dans l'arbitrage des conflits ou les rapports de conciliation. Si l'on a beaucoup écrit sur les différents aspects de l'arbitrage, dex grands points ressortent du présent chapitre : ce n'est pas par l'arbitrage qu'une négociation collective sortira de l'impasse, et l'on insiste trop sur la notion de comparabilité. À l'appui de cette thèse, le professeur Swan distingue deux types de différends : les différends bloqués, où les parties n'ont que de rares contacts, et les différends évolutifs, où les parties se rencontrent régulièrement. Dans cette dernière catégorie, la stabilité des relations peut être plus importante que les questions de principe. L'arbitrage convient aux différends bloqués parce qu'il permet aux parties de posséder des règles claires. La médiation, elle, ne donne quasiment pas de résultats dans de tels cas. Dans un conflit évolutif, par contre, avec le compromis, elle est essentielle, puisque les parties cherchent non pas une victoire de principe, mais un règlement honorable; or c'est à ce type de litige qu'appartiennent les conflits de travail.

La jurisprudence, ou l'esprit de la loi, révèlent les limites de l'arbitrage. Mais comme il n'existe pas de critères bien définis, les décisions arbitrales sont rarement aussi logiques que les arrêts judiciaires. Il faut se souvenir que les conflits de travail sont souvent polycentriques, c'est-à-dire qu'ils touchent un certain nombre de groupes avec plus ou moins d'intensité, alors que l'arbitrage ne peut s'attaquer qu'à certaines répercussions d'une décision relative à un litige précis. Les conseils arbitraux tripartites ont semblé un moment constituer un élément de solution, mais les efforts nécessaires pour allier la médiation et l'arbitrage risquent d'aboutir au dépassement du mandat de ces organismes, et de contrecarrer le désir qu'ont les parties de fixer les principes de base du règlement.

Deux autres possibilités ont alors été envisagées : le choix de l'offre finale et l'arbitrage-médiation. Toutes deux ont l'avantage de réduire le rôle des critères normatifs, en particulier celui de la comparabilité, mais leur application est limitée. La première formule n'aboutira vraisemblablement à rien en cas de contestation au niveau des principes. La seconde, quant à elle, présentera des obstacles sérieux, car, comment concilier les rôles tellement différents d'arbitre et de médiateur pour régler un conflit unique?

Selon le professeur Swan, il est utopique de croire qu'une seule technique puisse apporter la solution à tous les conflits. D'une part, il ne faudrait pas compter sur l'arbitrage pour obtenir systématiquement des résultats normatifs précis; d'autre part, l'application de la comparabilité peut entraîner de sérieuses erreurs.

Bien qu'il existe pléthore d'études concernant l'arbitrage des conflits d'intérêts dans le secteur public, on ne possède presque rien sur les systèmes d'arbitrage des griefs. Pourtant, récemment, plusieurs juridictions ont créé des organes spécialement chargés d'arbitrer les griefs des fonctionnaires. Au chapitre 10, Katherine Swinton met en parallèle la jurisprudence élaborée dans ces tribunaux et les précédents du secteur privé.

Lorsque les fonctionnaires se sont mis à négocier collectivement, plusieurs modèles institutionnels ont été conçus pour l'arbitrage des griefs. La Nouvelle-Écosse, la Colombie-Britannique et l'Alberta ont opté pour des variantes des commissions spéciales existant dans le privé; l'Ontario, le Nouveau-Brunswick et certaines lois fédérales ont institué des systèmes d'arbitrage spéciaux assortis de commissions permanentes. Cette dernière méthode présente peut-être l'avantage d'accélérer la procédure et de rendre des décisions plus uniformes. En Ontario, cependant, les maigres effectifs de la commission ont bloqué les travaux; d'ailleurs, le retard accumulé dans cette province et au fédéral est tel qu'il retarde l'instruction des dossiers. Mais on ne pourra remédier à ces problèmes que lorsqu'on saura si les commissions sont responsables vis-à-vis des seules parties en cause, ou si elles doivent tenir compte d'un intérêt public élargi.

Contrairement au secteur privé, dans l'administration fédérale et en Ontario, la loi garantit aux fonctionnaires l'accès à l'arbitrage. Ce droit reconnaît à un agent de négociation le pouvoir d'interpréter la convention collective, mais les individus sont habilités à protéger leurs intérêts professionnels essentiels, ce qui se traduit probablement par l'accroissement du volume des renvois à l'arbitrage.

Les griefs des fonctionnaires posent souvent des problèmes de compétence. La législation du travail, d'autres lois ou les conventions collectives peuvent en effet limiter la portée d'un grief. Un certain nombre de ces obstacles — la non-application de l'arbitrage aux stagiaires prétendument incapables, par exemple — se justifient par le principe du mérite. Il existe alors d'autres procédures d'appel spécifiques. La compétence entre en jeu lorsqu'un employé congédié allègue qu'il est victime d'une mesure disciplinaire déguisée. Dans un tel cas, arbitres et juges conviennent qu'un renvoi ne peut faire l'objet d'un arbitrage. Le congédiement déguisé, lui, peut être arbitré. L'application de cette règle générale n'est cependant pas simple du fait du nombre des variantes. Supposons un employé manifestement incompétent, qui justifie également des mesures disciplinaires. S'ils interprètent leur mandat au sens large, les arbitres risqueront de refuser l'arbitrage à l'employé incompétent dont la conduite est exemplaire, alors qu'ils protégeront un fauteur de troubles caractérisé. Cela peut sembler injuste, et de nombreuses causes ont été une source de frustration pour les parties et les observateurs impartiaux.

Dans le secteur public, ce genre de problème n'est pas rare, car la législation des relations de travail et les lois qui régissent la fonction publique imposent des restrictions. Les parties ont bien tenté d'élargir la compétence des arbitres en incluant dans leur convention collective des clauses non arbitrables aux termes de la loi, mais les instances d'appel s'y sont opposées formellement. De même, les tribunaux ont toujours fait obstacle aux limitations du droit qu'ont les individus de formuler des griefs de ce genre, ce qui a provoqué un vif débat autour de l'interprétation de la législation fédérale. Toutefois, si les inévitables questions de compétence rendent les décisions arbitrales particulièrement vulnérables à la révision judiciaire, les critères appliqués varient d'une juridiction à l'autre.

Le rôle des arbitres est à peu près la même dans les secteurs privé et public, malgré quelques particularités dans le secteur public. Par exemple, dans une cause, les arbitres ont invoqué la notion floue d'intérêt public pour justifier une mesure disciplinaire contre un employé qui avait brutalisé un détenu. Les principes de garantie de la procédure et d'équité peuvent constituer une protection, par contre, quand il s'agit des prisonniers, la notion d'intérêt public peut obliger l'arbitre à recommander la destitution ou des mesures disciplinaires. Même chose pour les causes fondées sur la « liberté d'expression ». C'est le cas, par exemple, d'un employé qui fait l'objet d'une mesure disciplinaire pour avoir critiqué ouvertement des mauvais traitements, réels ou perçus comme tels, dans le cadre de son travail. Dans les griefs réglés en 1981–1982, les arbitres ont essayé de faire la part entre la loyauté due à l'employeur et l'intérêt public, soit des révélations exactes. Auparavant, l'employé en question devait avoir tenté sans succès de faire valoir son point de vue auprès des ses supérieurs. Le fait d'invoquer l'intérêt public peut attirer l'attention sur des décisions arbitrales et des arbitres, voire les mettre en vedette. À ce jour, rien ne prouve que les décisions aient subi l'influence de la publicité ou des critiques, mais cela a sans doute fait hésiter certains observateurs impartiaux à accepter d'instruire des causes du secteur public. Quant aux efforts déployés pour annuler une décision controversée par voie législative, ils semblent avoir produit l'effet contraire.

La question de la compétence risque de se poser chaque fois que la négociation et l'arbitrage connaissant des restrictions. Celles que l'on impose à l'arbitrage, par exemple, peuvent aggraver les relations entre les parties. Aucune réforme ne semble proche, mais si le droit de recours à l'arbitrage était élargi, les choses deviendraient beaucoup plus simples. On pourrait aussi accélérer l'instruction des griefs en faisant défrayer les frais encourus aux parties.

L'instrument le plus complet existant pour le règlement des différends au Canada est peut-être la *Loi sur la négociation collective entre conseils scolaires et enseignants* (Loi 100 de l'Ontario). Au chapitre 11, Bryan Downie analyse les sept premières années d'application de ce texte qui, tout en reconnaissant les droits de grève et de lock-out, prévoit divers mécanismes afin d'éviter les arrêts de travail. Le législateur a aussi créé une Commission des relations de travail en éducation pour surveiller l'application de la Loi.

Comme en compte plus de deux cents séries de négociations par an, il est relativement facile de juger de l'opportunité d'une telle commission, type même de l'organe souvent préconisé par les experts. Ces organismes disposent de plusieurs moyens d'action, mais risquent, en raison même de leur succès, d'inciter les parties à s'en remettre à eux au lieu de négocier. Certains indices permettent d'évaluer si la Commission a su éviter cet écueil. L'un d'entre eux est la durée des négociations : plus elles se prolongent, plus les parties ont tendance à lâcher les rênes. La durée moyenne des discussions a augmenté d'un tiers dans les quatre années qui ont suivi l'adoption de la Loi, avant de baisser de 20 pour cent.

Un autre élément intéressant est l'enquête prévue par la Loi. Le rapport des enquêteurs doit à la fois tenir le public au courant du déroulement des négociations et insister en faveur d'un règlement. Depuis 1979-80, la Commission cherche à dissuader les parties de trop confier à l'enquête et les incite à poursuivre les négociations, même si un enquêteur est nommé. Parallèlement, la qualification des enquêteurs et la qualité de leur rapports s'est améliorée. Grâce à quoi les parties parviennent apparemment à s'entendre plus rapidement.

La Commission a également accru l'importance des tierces parties. La moyenne des nominations n'a cessé d'augmenter pendant les quatre premières années de la Loi, pour les unités de négociations importantes en particulier. Cependant, après 1979-80, le nombre d'enquêteurs a considérablement diminué. Comme ceux-ci peuvent intervenir de sept façons et conjuguer leur action, le professeur Downie a conçu un système qui a permis de constater que la moyenne de participation des tierces parties a progressé de 1976-77 à 1979-80, pour ensuite retomber.

La Loi 100 prévoit deux autres instruments indéits : le vote sur l'offre finale et le vote contrôlé sur la grève. Avant de débrayer, les enseignants sont tenus de se prononcer sur la dernière offre de leur employeur. S'ils la refusent, il leur faut ratifier par un nouveau scrutin tout arrêt de travail. À l'exception de l'année 1979-80, ces scrutins ont toujours été rarissimes.

Au chapitre des actions syndicales, le bilan de la Loi est bon, puisque sur toute sa période d'application, on n'a enregistré que trente-trois sanctions contre des grèves ou grèves du zèle. Cinq débrayages, tous intervenus au cours de la première année, n'ont pu se régler que par l'adoption d'une loi spéciale, chaque fois sollicitée par la Commission des relations de travail en éducation.

Dans l'ensemble, tout le monde reconnaît que la Loi 100 a bien rempli son office, d'ailleurs, une commission chargée d'étudier son utilité n'a recommandé que des modifications mineures à son égard. Signalons en passant que, si pendant les premières années de ce système de règlement on a assisté à l'intensification des conflits et à un recours plus fréquent aux tierces parties, ce n'est plus le cas, peut-être en raison de facteurs externes, comme le Programme de lutte contre l'inflation. Ces améliorations ont correspondu à une période difficile pour les négociations. Grâce à des remaniements administratifs, la Commission a pu perfectionner le mécanisme d'enquête. Les grandes leçons à tirer de la Loi sont que, dans le secteur public, chaque grève a un caractère bien particulier, et qu'un tribunal administratif ne saurait trancher pour chaque cas autrement que « sur mesure ». Il est clair aussi que le tribunal peut favoriser les règlements simplement en entretenant chez les parties le doute sur les moyens qu'il entend utiliser.

En 1982-83, les restrictions apportées aux négociations dans le secteur public ont reçu beaucoup de publicité, et la plupart des observateurs les considèrent comme un changement d'orientation. Au chapitre 12, Leo Panitch et Don Swartz exposent cependant un point de vue différent. Ils passent en revue la politique canadienne à l'égard des groupements de travailleurs, du passage de la première loi en la matière (1872) au début des années 1980. Pour eux, les événements de 1982-83 sont dans la ligne directe des années 1960 et 1970, marquées par l'érosion des droits des employés.

Au Canada, la consolidation du capitalisme s'est accompagnée de l'abandon progressif des mesures coercitives contre l'agitation ouvrière, puis du recours accru à la conciliation et, ultérieurement, d'une meilleure protection de la liberté d'association. Les transformations politiques les plus significatives de ce point de vue se sont produites dans les années 1930 et 1940 sous l'influence d'une poussée du militantisme ouvrier. Cette évolution devait aboutir à un nouveau modèle de relations de travail, la « négociation collective libre », qui mettait face à face, en principe sur un pied d'égalité, capital et travail, avec l'État comme arbitre. En réalité, le capital disposait de beaucoup plus de ressources que le travail, et l'État avait plutôt tendance à rogner le pouvoir économique des travailleurs par l'adoption de dispositions législatives. L'État-providence date de cette période.

Après la Seconde Guerre mondiale, la protection sociale par la loi ne devait plus progresser jusqu'à la Révolution tranquille du Québec, pendant laquelle certaines réformes allaient être entreprises dans cette province, alors même que des députés libéraux du Québec siégeant à Ottawa faisaient glisser leur parti vers la gauche. Parmi les transformations instaurées par les deux paliers de gouvernement figurait le droit — limité — des fonctionnaires à la négociation collective. À la même époque, au Canada anglais, le mouvement syndical restait conservateur et s'orientait plutôt vers la mise en place de tribunaux administratifs que vers la mobilisation des travailleurs. La loi incitait aussi fortement les chefs syndicaux à étouffer les actions spontanées. Ces réformes idéologiques et législatives ont façonné un mouvement dominé par les préoccupations juridico-administratives et peu desireux de s'affirmer, particulièrement dans le secteur public où, contrairement à d'autres associations juste avant la Seconde Guerre, les syndicats n'avaient pas dû lutter pour être reconnus.

À partir des années 1960, comme les universités, la classe ouvrière a été marquée par la génération de l'après-guerre. Les nouveaux syndiqués ont déclenché une série de grèves qui si sont poursuivies dans les années 1970, pour culminer dans un vaste mouvement d'employés du secteur public désireux d'améliorer leurs conditions matérielles. Ce nouveau militantisme s'est heurté à une résistance farouche du capital et de l'État, en pleine crise économique. Comme la conjoncture ne permettait pas les concessions nécessaires pour obtenir l'adhésion des syndicats au système capitaliste, les pouvoirs publics ont réagi en amputant les droits de négociation. Ils ont d'abord vainement essayé d'obtenir des chefs syndicaux qu'ils fassent accepter une limitation volontaire des revendications salariales, puis ont adopté des mesures législatives. C'est ainsi que les lois de retour au travail sont devenues habituelles pour clore les conflits de travail.

Ces mesures s'inscrivaient dans le cadre d'une politique nationale spécifique à l'endroit des syndicats. Des démarches légales en temps normal ont été déclarées illégales pendant une période donnée, pour un groupe particulier ou pour tous les travailleurs. Le recours fréquent à des mesures « d'urgence » traduit la crise d'un modèle de gouvernement usé. On peut en dire autant du Programme de lutte contre l'inflation, qui, lui aussi, faisait fi des règles régissant les relations de travail.

Sur cette toile de fond, les événements de 1982 constituent un grand tournant pour le Canada. Les restrictions imposées aux employés du secteur public ont été présentées comme des exemples à suivre par les entreprises priveés. Derrière la rhétorique du volontarisme, les mesures dites temporaires sont devenues relativement permanentes, et le monde du travail a été invité à sacrifier ses intérêts pour préserver le capitalisme. Autrement dit, on a demandé aux travailleurs de s'en remettre aux capitalistes pour qu'ils défendent les intérêts à long terme du peuple, sans donner la moindre garantie. Il est difficile de prédire ce qui pourrait arriver si le mouvement syndical partait en guerre contre ces mesures, mais une chose est certaine : un gouvernement en porte à faux pourrait rendre les syndicats singulièrement plus combatifs.

Notes

1. David K. Foot, éd., *Public Employment and Compensation in Canada: Myths and Realities* (Toronto : Butterworth pour l'Institut de recherches politiques, 1978); Meyer W. Bucovetsky, éd., *Studies in Public Employment and Compensation in Canada* (Toronto : Butterworth pour l'Institut de recherches politiques, 1979); Richard M. Bird, *The Growth of Public Employment in Canada* (Montreal : l'Institut de recherches politiques, 1979); et David K. Foot, éd., *Public Employment in Canada: Statistical Series* (Toronto : Butterworth pour l'Institut de recherches politiques, 1979).
2. Jacob Finkelman et Shirley B. Goldenberg, *Collective Bargaining in the Public Service: The Federal Experience in Canada* (Montréal : l'Institut de recherches politiques, 1983).

1: The Public/Private Sector Compensation Controversy

MORLEY GUNDERSON

Morley Gunderson is Professor of Economics and Industrial Relations, Department of Economics, University of Toronto, Centre for Industrial Relations, Faculty of Management Studies at Scarborough College.

Contents

Introduction 5
Theory 6
  Short-Run Adjustments 7
  Non-Pecuniary Differences 8
    Model Employer 8
    Job Security 9
    Deferred Costs to Future Taxpayers 9
    Preference for Deferred Wages 10
  Non-Competitive Factors 11
  Administrative Rules and Institutional Features 14
  Summary of Theory 15
Empirical Evidence 16
  Occupational Wage Comparisons 16
    Conceptual Considerations 16
    Existing Occupational Wage Comparisons 17
    Update and Additional Analysis 18
  Microwage Equations for Individual Workers 19
  Macrowage Equations 21
  Disequilibrium Queues or Shortages 22
Some Special Issues 23
  Fringe Benefits 23
  Executive Compensation 25
  Union Impact 27
  The Male/Female Wage Gap in the Public and Private Sectors 28
  Wage Controls 29
  The Role and Effect of Arbitration 30

Summary, Future Trends and Policy Implications **31**
  Summary **31**
  Future Trends **32**
  Policy Implications **33**
Acknowledgements **34**
Notes **34**
Appendices **37**
Bibliography **39**

The Public/Private Sector Compensation Controversy

Introduction

To a great extent, the future of industrial relations in the public sector will depend upon the ability of that system to deliver acceptable results to workers, employers and the general public. Compensation is, of course, one of the most important outcomes of the industrial relations system. It is important not only in its own right, but also because it can affect other outcomes, notably turnover, absenteeism, productivity and workers' attitudes, and because it can, in turn, have effects on other legal, economic and political features of the industrial relations system. Compensation serves not only to allocate labour to its most efficient uses, but also to provide income to workers and their families. Hence, it has implications for issues ranging from recruitment to worker morale. Public sector compensation is a crucial component — often the main component — of the cost of providing public services; hence it will affect the level and quality of public services and their cost to taxpayers. These factors, in turn, can affect election outcomes, the financial solvency of governments, and the decisions of taxpayers regarding the location of their homes and businesses. Compensation in the public sector can also give rise to 'orbits of coercive comparisons', both within various elements of the public sector and between the public and private sectors. These, in turn, can affect the macroeconomic state of the economy, especially inflation and unemployment. The impact need not be confined to the existing actors in the industrial relations environment; it may also affect future generations, especially with respect to implicit or explicit commitments pertaining to pensions and retirement provisions.

Clearly, the compensation issue is important, and it is even more so in the public sector than in the private sector. Its importance is compounded by the large and increasing size of the public sector and by the fact that there is public concern over other aspects of industrial relations, notably strikes, as well as the viability of the public sector in general. Impending demographic and microtechnological changes are also likely to have a strong impact on the public sector, and this suggests that the future will continue to see dramatic changes.

In order to predict the future, it is, of course, necessary to understand the present and the past. Towards that objective, this chapter discusses the theoretical determinants of public sector compensation and provides empirical evidence for these determinants. The emphasis is on explaining the level and changes of remuneration in the public sector, especially as compared to the private sector. While the discussion is often expressed in terms of wages, the emphasis is on total compensation, including the large and increasing component of fringe benefits and other non-wage aspects of compensation.

The theoretical discussion in this chapter is built upon interindustry wage determination, emphasizing short-run adjustments, non-pecuniary differences, non-competitive factors, and administrative rules and institutional factors. The empirical evidence reflects the format of the available data and involves occupational wage comparisons, microwage equations for individual workers, macrowage equations for the economy as a whole, and a proposed alternative measure: disequilibrium quantity measures involving queues or shortages. Further elaboration is given to certain special issues, including fringe benefits, executive compensation, union impact, male/female wage differences, wage controls and the role and effect of arbitration. The chapter concludes by summarizing the various issues and relating them to expected future trends and various policy options.

Theory

Any analysis of compensation differences between the public and private sectors must begin with a discussion of the theoretical reasons why such differences may arise and persist. Since the public sector is basically an industry designation, albeit consisting of numerous subsectors, the theory of public and private sector pay differentials is essentially an application of the theory of interindustry wage differentials. A textbook treatment of this topic and its application ot public/private sector wage differentials is given elsewhere.[1] The main points are summarized and expanded upon here.

Economic theory argues that in a *competitive* labour market, pure interindustry wage differentials would, in the long run, simply reflect compensating wages for the *non-pecuniary aspects* of the industry. If the non-pecuniary aspects (for example, working conditions and fringe benefits) were the same, then the forces of competition would, in the long run, eliminate pure interindustry wage differences. The latter term refers to wage differences that reflect only industry differences that remain after a control has been arranged for other wage structures. These other structures may arise because of dissimilarities in such factors as occupation, human capital endowments, unionization, region or personal characteristics of workers. This means that in isolating pure interindustry wage differences, it is important to hold constant the effects of other legitimate wage-determining factors; otherwise, interindustry wage structures may simply reflect other wage structures.

The application of this theory of interindustry wage differences to the public sector suggests that, in the long run, the forces of competition should eliminate any pure public/private sector wage differences, except for those that may exist to compensate for the non-pecuniary compensation differences between the two sectors. This, in turn, suggests that any public/private sector wage differences that do arise should reflect short-run adjustments, nonpecuniary differences, or non-competitive forces such as unionization. These categorizations provide an appropriate theoretical framework within which can be summarized the various determinants of public/private sector wage differences that have been advanced in the literature, and they provide a way of understanding past and future changes in public and private sector wages.

Short-Run Adjustments

The rapid growth that has occurred in the public sector, especially in the 1960s and 1970s, indicates that wage increases may have been necessary in order to attract additional workers into the public sector. In essence, an increasing demand schedule, coupled with a supply schedule that is not perfectly elastic in the short run, means that public sector wages will increase. In the longer run, this short-run wage advantage may dissipate as new workers enter the public sector — supply becomes elastic in the long run — and the wage advantage will dissipate if the growth of the public sector diminishes, as appears to be the current and future situation.

Numerous short-run adjustments may also characterize the public sector to the extent that wages are heavily influenced by administrative mechanisms, such as arbitration awards and pay surveys, or by political decisions, such as wage controls. (These aspects are to be discussed subsequently.) Such mechanisms may be applied infrequently and, hence, may generate anomalous results that are unlikely to prevail in the long run. In essence, public sector settlements in any given year are likely to reflect short-run factors that can be corrected in the long run.

Non-Pecuniary Differences

Public/private sector wage differences may reflect compensating wages for non-pecuniary differences across industries, such as fringe benefits, working conditions and job security. The large and growing importance of such factors as fringe benefits in the compensation package make wage comparisons, by themselves, increasingly tenuous. At a minimum, such wage comparisons must recognize the importance of non-wage aspects.

In general, there is the presumption that non-wage aspects of employment in the public sector are better than they are in the private sector. Liberal pensions, job security and good working conditions are the most frequently cited examples. If this presumption is true, it would suggest that the public sector should be able to pay lower wages because workers will be compensated by non-pecuniary advantages. Impressions notwithstanding, there are also *theoretical* reasons to suggest that non-pecuniary advantages are likely to be greater in the public than in the private sector.

Model Employer

The public sector has often tried to be a model employer and has led in providing more advanced labour standards (for example, those affecting safety, hours, vacations, and equal pay for equal work) and pension, health and retirement benefits. It has done so out of a desire to encourage similar private sector initiatives, or perhaps because of a belief that governments, in any case, would be called upon to assist those for whom such benefits were not provided through employment. In essence, governments may have a vested interest in all employees taking a substantial portion of their employment income in non-wage compensation: this may partly explain the favourable tax treatment given to some non-wage compensation.

Job Security

Job security may be provided in the public sector not so much as a 'give-away' to public sector workers, but because, while it is important, it is relatively inexpensive to provide. It is an antidote to the potential abuses of the political patronage system; that is, in order to avoid even the appearance of patronage, it may be necessary to provide a high degree of job security. In addition, it may be relatively inexpensive to provide in the public sector because of the large portfolio of jobs that are available, and because many public sector activities are independent of, or inversely related to, the business cycle. This means, for example, that if public employees know that they will have job security in the event of an economic slowdown, then in the boom of a business cycle their wages need not be raised to as high a level as they would have to be raised in the private sector. Job security may also be a way of deferring labour costs, since the costs of job security do not arise immediately and may be offset by paying reduced current wages in return for the future benefit.

Deferred Costs to Future Taxpayers

In addition to commitments to future job security, deferred wage costs may also occur in such forms as early retirement schemes, generous pensions or cash-outs (lump-sum separation payments) for cumulated sick-leave.[2] In the private sector, such cost commitments will have to be borne by the enterprise making the commitment. In the public sector, however, the commitments will have to be borne by future taxpayers (perhaps even when the Opposition Party is in power), who have little or no say in the current political bargaining. The temptation may be particularly great when the age structure of the work-force is such that considerable savings can be had on wages currently paid to a large number of younger workers who will not retire for some time. The problem may be compounded if the lower current wage costs induce the public sector authorities to hire a larger work-force than they would have hired if they paid the full cost.

While the incentive to defer wage costs goes beyond that which exists for all industries, it is unlikely that current governments consciously try to shift their cost commitments to future taxpayers. Rather, in the give-and-take of the bargaining process, it is probably easier for them to reduce their current fiscal crises by making concessions on items such as pensions or early retirement, the costs of which will be deferred to the future. To be sure, *some* checks are available to control the deferring of costs to the future. Current housing and property values may be lowered in communities that have excessive future tax commitments to pay for unfunded pension, retirement or job security provisions for their public sector workers. In addition, bond ratings (and, hence, the cost of borrowing) may be affected by a community's future cost commitments.[3] Workers may not always accept reduced current wages in return for future non-wage commitments, knowing as they do that future governments may not always be able to meet those commitments, especially if the tax base is eroded by households and businesses 'voting with their feet' and moving away from areas with excessive commitments. (Ehrenberg and Smith,[4] for example, provided empirical evidence indicating that public employees will receive compensating wages for undesirable pension features, such as underfunding or non-vesting.) De-indexing of pensions, the reduction of job security for older employees, and ultimate bankruptcy are all possibilities for some public sector employees. The social contract whereby each generation provides for its older population may be increasingly jeopardized if a small portion of the population is required to meet cost commitments for a large portion of the population that begins to retire, especially if those retiring, and doing so early and on generous pensions, have at some time violated the spirit of that contract.

While these forces can provide some potential checks on the deferring of wage costs to future taxpayers, their full effectiveness would require a fair degree of sophistication with respect to the operation of markets that permit trades between current and future participants. The prevalence of such markets will be discussed in the subsequent section treating empirical evidence. At this stage, suffice it to say that there are theoretical reasons for believing that public sector employers may try to save on current wage costs by granting generous deferred compensation, and that the market checks to control such a trade-off may be imperfect.

Preference for Deferred Wages

Even if deferred compensation, in the form of generous pensions or retirement provisions or job security, did not transfer costs from current to future taxpayers (for example, because the liabilities were capitalized into property values or were discounted by current public sector employees), there still may be a preference for deferred wages as a form of compensation. This could be true in both the public and private sectors if, for example, employers wanted to ensure the honesty of, and provide work incentives for, their workforce, but found that constant monitoring is difficult or expensive. In such circumstances, constant monitoring may be replaced by periodic monitoring, with the compensation being deferred until after the periodic assessment.[5] Deferred compensation may also be used to reduce turnover and to recoup employer-specific training costs, or to provide employees with a financial stake in the solvency of the employer, to the extent that the deferred wages are paid only to those who stay, and are contingent upon the solvency of the employer.

While preferences for deferred wages may be prevalent in both the public and private sectors, this prevalence may be particularly important in the public sector. Everyday monitoring of output may be particularly difficult in the public sector, since the output is usually a service that has no market valuation. Honesty may be particularly important in certain politically sensitive public sector jobs, and while higher compensation itself will reduce turnover, it will be even more effective if the payment is deferred and, hence, is contingent upon the employee staying at his or her job. Employer-specific training may be prevalent in public employment because of the absence of private sector counterparts. Giving employees a financial stake in the solvency of the employer may be particularly important in the public sector, because of the absence of other market checks on the wages of public sector employees. For these reasons, public sector employers may have a greater preference for deferred compensation in such forms as liberal pensions and retirement schemes or job security. Such compensation may be a rational outcome of the peculiarities of public sector employment.

Non-Competitive Factors

As well as reflecting short-run adjustments and compensating wages for non-pecuniary differences, public/private sector wage differences may also reflect non-competitive factors. In particular, the ultimate constraining influence on wages in the public sector is a political constraint, which is presumed to be less binding than is the profit constraint on the private sector. Public sector workers are often believed to have an extra degree of influence with respect to their wages because they do an 'end run' around the bargaining process and appeal directly to the vote-maximizing politicians. This is especially the case when the public sector workers are well-organized and, hence, can deliver not only their vote, but the vote of others, as well.[6] Their incentive towards political action can be particularly strong because they are united on this one issue which affects them so directly; taxpayers, on the other hand, are diffused and are influenced in their voting decisions by myriad issues, among which the cost of public sector employees is but one. In addition, elected officials may find it difficult to oppose union certification in the public sector, thereby making it easier to organize that sector and, hence, achieve the wage gains associated with unionization.

The power of public sector workers is enhanced by the fact that they often produce an essential output, one on which they have a natural monopoly. In fact, the appropriateness of that output for monopolistic practices is often the rationale for the output being provided by the public sector. In addition, there are often few good substitutes for public sector labour, given the personal nature of many of the services and the high degree of professionalization required. The fact that there may be few good substitutes for the output produced in the public sector or for the labour used to produce that output can mean that wage increases are not likely to be constrained by the possibility of substantial employment reductions. Ehrenberg[7] provides empirical evidence of this inelasticity of demand for public sector labour, based on U.S. data. His estimates also remind us that the public sector is not one 'industry', but consists of various subsectors, each with differing labour-demand elasticities, ranging from low elasticities in essential services, like police protection and fire-fighting, to higher elasticities in less essential services, like public welfare and the handling of natural resources.

Unionization is obviously another non-competitive factor that can influence wages. It can be a particularly important factor in the public sector, given the replacement of the profit constraint by the political constraint mentioned above and the possibly inelastic demand for public sector labour. This inelastic demand is a necessary, but not sufficient, cause of a compensation premium. For example, organizational power, through a union's negotiating power, strike threat or lobbying effort, is also required to generate higher wages. The power of unions is further enhanced by the fact that many public sector workers in Canada have the right to strike, a right that is very rare in the United States.[8] Given the potentially important effect of unions in the public sector and the fact (to be documented subsequently) that the growth of public sector unionism and a public sector wage advantage are highly correlated, the effect of unionism is singled out in this chapter for special attention and is dealt with under the section entitled 'Special Issues'.

While the various non-competitive factors mentioned above certainly suggest the potential for an upward bias to public sector wages, they also imply the existence of certain constraining influences that may not even be present in the private sector. The ultimate political constraint can be a disadvantage to public sector workers, since they may diffuse their resources at both the enterprise level and at various political levels, and since politicians may prolong bargaining to gain media exposure and the appearance of being protectors of the taxpayers, an important image in the current era of 'taxpayer revolt'. The public image of strikes in the public sector is almost universally one of being 'caused' by public sector workers; the public forgets that it takes two sides to create a strike. Even well-meaning politicians and bureaucrats, beleaguered by demands from their various constituencies, may tend to put little emphasis on the demands of their employees, unless compelled to do so. As the recent wage controls have exemplified, public sector workers are also often singled out — some would say sacrificed — through the political process, to help solve macroeconomic problems to which they may or may not have contributed. In addition, Lewin and McCormick[9] indicate that public sector workers may be called upon to help solve the fiscal crises of their employers by deferring wage increases, making pension funds available to finance bond issues, and helping their employers bargain with higher levels of government.

The essential nature of many public services may also work against public sector employees, many of whom may be reluctant to use what power they have because they regard its use as unprofessional and themselves as being beholden to the public: that is, as public *servants*. The irony of holding too much power is not only that such possession often entails responsibility, but also that it can emasculate groups and prevent them from advancing only their own position. The compromising position of political parties near the margin of power and the compromising position of many European trade unions involved with tripartism are but two examples of this phenomenon.

Constraining influences within the public sector are also exhibited by the numerous substitutes for services produced in the public sector and for the workers who provide those services, albeit the substitution is often subtle and may take a long time to institute. The movement of households and businesses to suburbs and communities that require a lower level of public services (and, hence, have lower tax rates) can be interpreted in part as a substitution of private for public services. In addition, fire-resistant homes and offices can substitute for the services of fire-fighters; private security systems can substitute for public police forces; private charity can substitute for public charity, which becomes administratively costly; and the new microtechnology can obviously substitute for the many clerical and communications functions that characterize the public sector.

Even the nature of the public sector labour market itself may work against public employees, many of whom work for employers that are so large that they dominate their local labour market. In such circumstances, the employers become wage-setters (that is, monopsonists), not wage-takers, and, hence, pay lower wages because their employees have few options in the private sector or in other areas of the public sector. This can occur not only in small communities or large 'government towns', but also when centralized bargaining consolidates various employers (for example, hospitals and school boards) so that they behave as a single employer.

Administrative Rules and Institutional Features

In addition to reflecting short-run adjustments, non-pecuniary differences and non-competitive factors, public sector wages may also be affected by administrative rules and procedures such as wage surveys, nationally uniform wage policies, bargaining limitations and strike limitations. (Arbitration decisions and wage controls can also have an effect, and will be analysed in the section entitled 'Special Issues'.) To a large extent, the administrative rules can be thought of as intervening variables through which the basic factors previously discussed influence public sector wages. They do not exert an independent influence, however, so much as they constitute a vehicle through which the basic forces operate. For example, as Katz and Lewin[10] pointed out, even pay procedures that are designed to be 'objective' will invariably reflect other basic forces, including bargaining power.

Wage surveys are often used to establish comparability between public and private sector wages when comparable jobs exist. An upward bias can occur, for example, if such surveys are based on large or predominantly unionized or urban establishments and so over-represent high wages in the private sector. A policy of providing nationally or provincially uniform wages can also impart an upward bias, since those wages are likely to be based on the higher-wage regions. (If they were not, the government could not recruit in the high-wage region. Such a situation provides an example of competition in the public sector, ensuring a floor, but not a ceiling, for wages.)

Administrative rules governing the scope of bargainable issues can also affect public sector wages. In general, managerial prerogatives are stronger in the public sector, as collective bargaining is often not allowed over such items as classification, promotion, transfers, technological change, lay-offs and pensions.[11] This restriction could serve as a constraining influence on public sector wages, to the extent that employers could circumvent wage increases for individual workers through such mechanisms as classification or promotion. However, higher wages may also have to be paid in order to compensate workers for their lack of control over such items. Similarly, compensating wages may have to be given in situations where workers lack the right to strike, or where that right is circumvented by restricting it to designated employees or to non-essential services. Conversely, granting the right to strike can give very substantial bargaining power to public sector employees when the services are essential and alternatives do not exist. The bargaining power of such employees is enhanced when employers lack the corresponding right to lock out their employees.

Clearly, the various administrative rulings and institutional features of wage determination in the public sector can affect public sector wages. They are, however, the institutional manifestations of the more basic underlying forces of short-run adjustments, the compensation of wages for non-pecuniary differences, and political bargaining. This is not to deny their importance; in fact, policy initiatives to effect public/private wage differences will operate largely through such administrative rulings and institutional features.

Summary of Theory

Being an application of interindustry wage differentials, public/private wage differentials will reflect short-run adjustments, the compensation of wages for non-pecuniary differences, and non-competitive forces. In addition, the impact of these basic forces will be evident through various administrative rules and institutional features, such as wage surveys and limitations on the scope of bargaining and the right to strike. While many of these forces and rules are seen to impart the potential for an upward bias to public sector wages, they also provide countervailing forces to constrain public sector settlements. Yet such forces tend not to be emphasized by practitioners, academics, the media and the public at large, perhaps because they work subtly, and because their operation is clearer in the long run than in the short run.

Although the basic underlying forces and institutional features can provide a downward, as well as an upward, bias to public sector wages, they are more likely to provide an upward bias. This bias occurs because the basic forces of competition, on account of their recruiting needs, are likely to provide a floor for public sector wages; yet these same competitive forces need not provide a ceiling, since they can be ignored by the political authorities, should they choose to pay excessive wages. In essence, the potential for wages to be greater in the public sector than they are in the private sector hinges on whether the constraints of the political market-place are as binding as the profit constraint of the private market.

While theory suggests that there is a *potential* for an upward bias to public sector wages, the *actual* existence or extent of that bias must be ascertained by an examination of the empirical evidence. The problem will be compounded, however, by the theoretical reasons, discussed above, for believing that non-wage components of compensation (especially those involving deferred wages) will be different in the two sectors. This makes it especially imperative that both wage and non-wage outcomes be examined in any empirical work.

Empirical Evidence

Reflecting the type of data that was employed, the empirical literature on public/private sector wage differentials embodies four different techniques: occupational wage comparisons; econometric analyses of microwage equations, using the individual worker as the unit of observation; macro-estimates of aggregate wage equations; and disequilibrium quantity measures. Although each of these techniques has its strengths and its weaknesses, together they may provide a consistent picture if, in fact, they yield similar conclusions. The purpose of this section is to review — and update, where possible — the existing evidence, with a view to ascertaining what generalizations can be made concerning compensation differences between the public and private sectors.

Occupational Wage Comparisons

Conceptual Considerations

Probably the simplest way to compare public and private sector wages is to compare workers in the same occupations, where, presumably, the nature of the work is similar. Obviously, the more narrowly defined the occupation, the more likely it is that the work will be similar. In such circumstances, it is not necessary to control for differences in such factors as education, training, or required strength or dexterity, because different *combinations* of these factors can be utilized to perform the work required by the occupation. One person may rely on training, another may rely on experience, and another on education; what matters is that the task is performed, not how it is performed. In addition, if comparisons are made within the same region, then the pure public/private sector wage differentials will not be confounded by regional wage differentials. Such comparisons are the type used in most wage surveys — including those of the Pay Research Bureau in Canada — to establish private sector comparability. Even if the use of narrowly defined occupations does not ensure that public/private sector wage comparisons involve similar work at any given point in time, they can be used to enable such comparisons over time, to the extent that it is reasonable to assume that the job content between public and private sector workers in the same occupation does not change dramatically over the course of that time period.

Existing Occupational Wage Comparisons

Such occupational wage differences and comparisons over time between the private sector and various elements of the public sector have been estimated in Gunderson,[12] based on Canadian data. The data sets have been varied and include taxation data since 1946; base wage increases since 1967; municipal and private wages for labourers, by community, since 1952; and public/private sector wage comparisons for select occupations from various sources, such as Pay Research Bureau data since 1967, the Highly Qualified Manpower Survey in 1973, hospital and private sector surveys since 1966, and wage statistics from various cities in 1977. While there is considerable diversity in the results, the data sets generally show a public sector wage advantage of approximately 1 to 15 per cent in recent years. The advantage is generally greater for females than it is for males, and is greater for low-wage, as opposed to high-wage, workers; in fact, high-wage workers may be at a disadvantage in the public sector. The public sector wage advantage, which appeared after the 1950s, is a relatively recent phenomenon, and there is some evidence to suggest that it may have begun to dissipate in recent years. Public sector settlements also appear to be more volatile, with unusually large settlements often reflecting a catch-up process and dissipating over time. Many of these conclusions, based on occupational wage data, are confirmed in studies based on data from the United States and the United Kingdom.[13]

Update and Additional Analysis

Unfortunately, data changes and the discontinuation of certain data series make it impossible to update all of the Canadian data series that have been discussed in this chapter. However, an examination of the recent taxation statistics, the base-wage changes for Ontario, and the ratio of public to private sector wages for select occupations in the hospital sector and in various Canadian cities[14] indicates no substantial changes in the patterns and trends previously discussed.

The data on the ratio of public sector to private sector wages for labourers in various Canadian cities[15] are further analysed in this chapter in Appendix 1-1. Specifically, in all but four of the thirty-seven communities, the average ratio of public sector to private sector wages was higher in the latter half of the period (1963 to 1973) than it was in the earlier half (1952 to 1962). The wages of labourers in the public sector exceeded those of labourers in the private sector in twenty-six of the thirty-seven communities in the latter half of the period, as compared to fifteen of the thirty-seven in the earlier half. The overall average wage ratio was 1.06 in the latter period and 0.96 in the earlier period. The calculations also illustrate that, throughout the full period from 1952 to 1973, the ratio of public sector to private sector wages exhibited a rising trend in nineteen, and a falling trend in only two, of the thirty-seven communities. Moreover, when the trend changed direction in each sample period, it rose more often than it fell, especially from 1963 to 1973; that is, the ratio reached a minimum value in the early period and a maximum value in the later period in four and eight cases, respectively. Clearly, what was a public sector wage disadvantage during the 1950s turned into a wage advantage during the 1960s and 1970s. Unfortunately, information for the data set covering this period is not available in separate form for union and non-union workers and, thus, cannot enable the disentangling of a 'union', as compared to a 'purely public', impact.

An update of this analysis is also feasible for the largest Canadian cities, and would include the years 1977, 1979 and 1980 for most of these communities. In general, the results, as given in Appendix 1-2, indicate the same rising trend throughout most of the period. Of particular interest, however, is that with these updated data, the ratio of public sector to private sector wages tends to reach its maximum value during the latter part of the sample period (that is, in the 1960s or 1970s); thereafter, it falls. In addition, the calculated public/private sector wage ratio in the year of its maximum value is not tremendously large, even at its *maximum* expected value (which averages 1.10 for those cities where the maximum value was reached in the sample period). The overall *average* ratio of public/private sector wages for the full sample period from 1952 to 1980 was 1.03.

The updated figures, then, suggest that, although there was a rising trend from a public sector wage disadvantage to a wage advantage over the period from 1952 to 1980, that advantage peaked sometime in the latter part of the period. In addition, the advantage, even at its greatest, was not very great. This suggests that, while forces to change a public sector wage disadvantage to a wage advantage existed, there were also forces at work curbing that trend.

Microwage Equations for Individual Workers

A fundamental potential problem with occupational wage comparisons is that similar work might not be performed in the same occupation in both the public and private sectors, especially if the occupation groupings are fairly broad. Partly in an effort to overcome this problem, researchers have tried to make public and private sector wage comparisons between individual workers with the same levels of education, training, experience, and other factors of human capital that determine wages. The intent is to compare individual workers, rather than jobs.

Controlling for the effect of the various wage-determining factors is usually accomplished through multiple-regression analysis. Separate wage equations are estimated for the public and private sectors, using some measure of wages as the dependent variable and various human capital and other wage-determining factors as independent variables. The estimated regression coefficients indicate the wage change that is associated with a one-unit change in each explanatory variable; they are the economic returns to additional endowments of human capital or other wage-determining factors.

It can be shown formally that the overall average wage differential between the public and private sectors can be decomposed into two component parts. One consists of the differences in the endowment of wage-determining factors (or the means of the explanatory variables) between public and private sector workers; the other consists of differences in the pay (or the regression coefficients) given to public and private sector workers for the same endowments of wage-determining characteristics. The former is considered a legitimate pay difference, since it reflects differences in the endowments of productivity-related factors. The latter term is a measure of the pure surplus or economic rent (if positive) that public sector workers receive relative to those of their private sector counterparts who have the same endowment of productivity-related factors.

Estimates of such earnings equations from the 1970 Canadian census[16] indicate that, on average, public sector males received $737, or 9.3 per cent more, and females received $989, or 22.3 per cent more, than their private sector counterparts. However, much of that gross unadjusted differential reflects the public sector workers' superior endowments of wage-determining characteristics. After these differences are controlled for, the remaining pure wage advantage of public sector employment was $492, or 6.2 per cent, for males and $383, or 8.6 per cent, for females. Unfortunately, updated figures based on the 1980 census will not be available until after 1984, when the 1980 Public Use Sample Tapes will become available. In addition, the census data do not have a union status variable; hence, it is not possible to decompose the overall public/private sector earnings differential to include a possible union rent and a pure public sector rent.

A similar public sector wage advantage, based on American data, has been published in Smith,[17] where a number of her previous studies, based on various data sets, are summarized and updated. Her data also enable a calculation of the public sector wage advantage by level of government. In general, the advantage increases with the level of government, with the federal government consistently showing a wage advantage, a fact that Smith attributes to the national pay scales and the greater diversity of voter issues, of which public sector pay is but one.

Unfortunately, the Canadian census data do not enable a similar analysis by level of government; however, Canadian data on base-wage increases over time[18] did indicate that the largest increases since the mid-1960s occurred at the provincial and local, but not federal, levels. This is interesting, since the process of public sector wage determination at the federal levels differs greatly between Canada and the United States. In the United States, wages at the federal level are generally determined by the employer (that is, by Presidential decree), in conjunction with various advisory groups. In Canada, by contrast, the federal Public Service Staff Relations Act allows collective bargaining with the predominantly unionized work-force to take place and grants the right to strike for non-designated employees who choose not to go to arbitration. Although there certainly are other differences between the Canadian and American federal systems, this difference alone suggests that collective bargaining with a predominantly unionized work-force does not necessarily lead to higher wage settlements than does a system of employer decree in the public sector, with all of its political connotations. This is also illustrated in Lewin's discussion of municipal wage determination in Chicago, where a high public sector wage was the price the mayor was willing to pay in order *not* to have to engage in collective bargaining with a predominantly unionized workforce.[19]

Macrowage Equations

A third methodology, in addition to occupational wage comparisons and wage equations from individual workers, involves the estimation of aggregate (that is, Phillips curve) wage equations for each of the public and private sectors. Wage changes in each sector are regressed upon various measures of macroeconomic and labour-market conditions, such as inflation and unemployment or job vacancies. Such estimates do not provide a measure of public/private wage differentials; rather, they indicate the differential responsiveness of public and private sector wages to labour-market conditions and to other conditions. The earliest Canadian evidence in this area[20] tended to indicate that labour-market conditions affected wages in the public sector much less than in the private sector, suggesting that public sector wages were not responsive to market forces. However, subsequent work by Auld, Christofides, Swidinsky and Wilton,[21] also discussed in Auld's own study,[22] suggests that both public and private sector wages are equally responsive to market forces, although these authors did find that federal wages and wages determined under arbitration are not constrained by adverse labour-market conditions. In addition, they find no evidence of spillovers from the public sector to the private sector.

There has been discussion of some econometric problems of the previously mentioned Canadian studies, and some alternative estimates based on a different data source, in Christensen.[23] Her results indicate that relative to the private sector, wages in the provincial public sectors are more responsive to inflation and less responsive to labour-market conditions. This relationship is equally strong whether wages are unilaterally set by employers or determined by collective bargaining under arbitration; however, it is weaker when public sector workers have the right to strike, suggesting that public sector wages more closely track private sector wages in such circumstances. Whether labour-market conditions are slack or buoyant does not make a substantial difference in these results.

In summary, the existing evidence, based on aggregate wage equations, is somewhat contradictory and difficult to interpret;

hence, it should be regarded as tentative. The more recent evidence, however, does suggest that both public and private sector wages are responsive to basic economic conditions (although there is some dispute over how similar the responses of the two sectors are), and that public sector wages certainly are not immune to market forces, either mild or extreme, even when they are determined under a strike threat.

Disequilibrium Queues or Shortages

A fourth methodology for comparing public and private sector wages is an indirect one: it would involve comparisons of disequilibrium on the quantity side as a proxy for disequilibrium on the price (or wage) side. Such disequilibrium quantity measures have been advocated as a theoretically consistent and practically feasible criterion for wage determination under interest arbitration.[24] They could also be used to determine if public sector wages differed substantially from their private sector counterparts. If public sector compensation was excessive, relative to its private sector counterparts, then one would expect there to be greater queues of workers in the public sector than in the private sector. Measures of such queues could include a larger number of job applicants relative to the number of workers or lower turnover in the public than in the private sector. They could also involve indirect measures of job-rationing, including unnecessary requirements for a job and high union or professional dues.

A virtue of using measures of disequilibrium on the quantity side, rather than on the price side, (or at least a virtue of using measures on the quantity side as an adjunct to those on the price side) is that the former takes account of the latter, as well as all of the other non-wage aspects of the job, such as fringe benefits and working conditions. That is, workers are allowed to evaluate *all* of the positive and negative aspects of public and private sector employment and can then 'vote with their feet' by entering one sector or the other. Worker evaluation is clearly based on *total compensation*, which is to include fringe benefits and working conditions; hence, the disequilibrium quantity measures reflect the market evaluation of these complex trade-offs, including any assessment of appropriate wage relativities. In essence, total compensation in the public sector is excessive, relative to the private sector, when queues are excessive in the public sector, *relative* to the private sector.

Unfortunately, empirical studies of public/private compensation comparisons have not focused in a comprehensive fashion on such indirect disequilibrium quantity measures. Some studies have made reference to the large number of job applicants for certain public sector jobs, to the mobility from low-wage to high-wage jobs within the public sector,[25] or to the low turnover in the public, relative to the private, sector.[26] Nevertheless, additional work in this area is clearly merited, given its potential to provide insight into the crucial question of the comparability of total compensation. At a minimum, the use of disequilibrium quantity measures can supplement our conventional measures, based upon occupational wage comparisons or the estimation of microwage or macrowage equations.

Some Special Issues

The previous pages made reference to numerous issues that have arisen increasingly frequently in the discussion of public sector wage determination, as well as in the discussion of wage determination in general. Such issues include fringe benefits, executive compensation, union impact, male/female wage differences, wage controls, and the role and effect of arbitration. Each of these is singled out here for discussion.

Fringe Benefits

Probably the most controversial issue, and the most important, pertains to comparisons between the private and public sectors of fringe benefits and other non-wage aspects of compensation. Such comparisons are crucial, given the large and growing importance of fringe benefits and the appropriateness of comparisons on the basis of total compensation, as opposed to wages only. As indicated earlier, there are also theoretical reasons to expect fringe benefits to be a more important form of compensation in the public sector, especially through deferred wages, in such possible forms as job security and early and generous pensions.

Although comprehensive empirical evidence on the magnitude of fringe benefits in the public, as compared to the private, sector is difficult to obtain, a number of American studies have documented that some aspects of fringe benefits and working conditions are better in the public sector. For example, a public sector advantage has been documented with respect to employment stability;[27] job characteristics and working conditions;[28] employer contributions to pensions, insurance and paid leave;[29] and expected pension receipts. (This last factor exists mainly because of greater coverage, indexing and a lower retirement age.)[30] Bellante and Link[31] cite a number of U.S. government reports which also indicate a higher level of public sector fringe benefits in general, and they provide evidence that risk-averse workers are more likely to be employed in the public sector. This evidence suggests that the public sector provides a decrease in the risk associated with various aspects of employment. Bellante and Link emphasize the lower risk of unemployment, but other aspects of risk could include those associated with injury, pensions or promotion opportunities.

Canadian evidence on fringe benefit comparisons is much more limited. Cost estimates of benefits — such as payment for time not worked, unemployment insurance, pensions, health and welfare coverage, bonuses and profit-sharing — suggest a rough comparability with fringe benefits, expressed as a percentage of the payroll, as follows: 37.4 per cent in municipalities, 30.2 per cent in hospitals, 32.3 per cent in education and 31.5 per cent in government, as compared to an industry-wide average in 1979 of 32.4 per cent.[32] Rough comparability in fringe benefits between the private sector and the provincial and municipal public sectors is also documented in Gunderson.[33] These various calculations, however, do not include all of the relevant items involving working conditions and deferred wages in the form of job security, early retirement or indexed pensions. A valuation of such items would, in all likelihood, show an advantage in favour of public sector workers. Such a valuation, however, can be extremely complicated, involving as it does crucial actuarial assumptions. Pesando,[34] for example, illustrates how current interest-rate assumptions on indexing have led to the undervaluing of pension benefits in the federal government and the overvaluing of them in the private sector.

Numerous other non-wage aspects of employment are more difficult to quantify. On the one hand, the public sector often provides the "opportunity to do good",[35] and it can provide access to political power and the chance to work in a politically exciting environment. On the other hand, the public sector may provide fewer opportunities to work overtime and less chance to earn the extremely high executive salary. Involuntary job changes and layoffs are no longer uncommon, and the public sector has its own dual labour market, with a peripheral, secondary, labour force which is maintained by contractually limited employees and through subcontracting.

How these various quantifiable and non-quantifiable factors actually compare between the public and private sectors remains an unanswered question. (As was suggested earlier, perhaps a better approach, given the difficult task of quantifying all of these factors, would be to let the market participants do the evaluation and then to observe the disequilibrium *quantity* measures as a proxy for disequilibrium on the price, or total compensation, side.) The quantifiable non-wage factors indicate rough comparability, and most (but not all) of the non-quantifiable ones suggest a public sector advantage. Hence, a conservative statement might be that non-wage comparisons probably do not offset the public sector wage advantage; if anything, they enhance it on a total compensation basis.

Executive Compensation

Reference has already been made to the fact that the public sector wage (and total compensation) advantage probably does not prevail in the higher-level jobs, where, in fact, the private sector probably pays more. Additional evidence of a private sector advantage at the senior levels has been given for Canada in Wilkins[36] and Morley,[37] and for the United States in Hartman and Weber.[38] Certainly there are no senior-level executive salaries in the public sector that match the highest salaries in the private sector. Often, the senior public sector salaries are limited by formal and informal rules, or by linkages to other public sector salaries or to the salaries of elected officials to whom the public servants report.

There are numerous plausible reasons that can be advanced for the reversal of the public sector wage advantage at the more senior executive levels. Certainly, some of these jobs offer access to political power and to a knowledge of how the 'rules of the game' are determined, and such inside information may command a wage premium for those who return to the private sector.[39] Thus, a stint of public service may be akin to an apprenticeship program: it is low-wage training that will yield subsequent returns. Nevertheless, many senior low-wage public sector jobs are permanent and do not involve people who will subsequently move to the private sector.

The ultimate political constraint in the public sector may be that taxpayers would not tolerate extremely high salaries for senior public servants. This may arise from an intention to attract those with a desire to do public service, rather than to acquire a large income. It may also emanate from the fact that senior public service salaries are more visible, not only because of their size and their relative infrequency, but also because it is often required that they be made public information. Senior public servants may also be more closely allied with the political parties in power and this alliance may raise the spectre of abuse through the patronage system; this possibility is reduced by limits on, and public knowledge of, such salaries. It is also possible, however, that the ultimate political constraint leads to the error of setting senior public service salaries too low to recruit and hold executive talent, or to the limitation that these salaries may attract only the wealthy, who can afford to sacrifice employment income. It may be difficult for the general public to accept the proposition that a few senior executives may be 'worth' extremely high salaries because they have a scarce talent that enables them to provide public services at substantial savings in taxpayers' dollars. The profit motive in the private sector would encourage — in fact, require — the payment of high salaries for such talents; yet, because of the absence of the profit constraint in the public sector, such salaries are not requisite, even if they are efficient or cost-saving in the long run. Just as the political constraint can lead to unnecessarily high wages in the public sector at most wage levels, so it can lead to inefficiently low salaries at senior levels.

It may also be that the relatively low salaries paid to senior public servants are simply accepted in return for other aspects of the job, such as job security and a reasonable guarantee of progression through the ranks, or early retirement and an indexed pension. In fact, it may be sensible for the public sector to offer generous and early retirement if such employees would otherwise have a high degree of job security: early retirement enables the employers to re-hire on a contractual basis those whom they may want to retain. This may give the public sector more flexibility in its employment decisions than might appear at first glance.

Finally, the nature of public sector employment may simply be such that high senior-level salaries are not required. Such salaries are usually paid in the private sector for *entrepreneurial* talent; such skills may not be as necessary in the public sector, where the senior levels require more organizational and communications talent, and such skills may not be as scarce as entrepreneurial talent. This suggests that many senior-level jobs are not directly comparable between the private and public sectors, since, in fact, they require somewhat different talents.

While there is a wealth of plausible explanations for the public sector salary disadvantage at the more senior levels of employment, little empirical work has been done on the determinants of such salary levels. Ehrenberg and Goldstein, and Lazear and Rosen,[40] do find that the salaries of senior city officials are positively related to measures of their performance; however, this finding does not tell us if such rewards are in line with what such officials would have received in the private sector.

Union Impact

As in the private sector, the union impact on average wages in the public sector is the product of the union/non-union wage differential and the extent of the organized sector. If public sector unions have a substantial impact on the wages of their members, but only a small proportion of the public sector is organized, then this situation would, of course, not have much of an effect on average public sector wages. In addition, the degree of organization of the industry can also affect the union/non-union wage differential itself. On the one hand, if a small proportion of the industry is unionized, this will increase the possibility of non-union competition; on the other hand, it will mean that the proportion that is organized is probably the group with the greatest potential for a substantial union impact, since that is the criterion for organizing.

In Canada, over 70 per cent of the employees in public administration, at all levels of government, are unionized, and over 90 per cent are covered by a union-negotiated collective agreement.[11] This degree of unionization and collective bargaining coverage is much higher than in the private sector. In addition, the growth of public sector unions occurred mainly during the 1960s and 1970s, the period during which the public sector wage advantage emerged. Thus the high proportion of public employees who are unionized or covered by a collective agreement suggests that the potential exists for a substantial union impact on average public sector wages, if these unions have, in fact, had an impact on the wages of their individual members. This potential is enhanced by many of the previously discussed characteristics of public sector employment: the inelastic demand for labour means that union-imposed wage increases need not be constrained by the possibility of large employment reductions; the monopsonistic bargaining power of many dominant public sector employers can be offset by unions; and the political nature of bargaining may mean that unions are particularly effective. In contrast, the power of public sector unions may be weakened by the fact that their members are predominantly white-collar workers and are less prone to engage in militant tactics.[12] In addition, the fact that so many of these workers are unionized and almost all are covered by a collective agreement may result in a small wage impact because even those without much potential for wage gains are organized.

Although there is a potential for a substantial union impact in the American public sector, numerous American studies have concluded that the average wage effect of public sector unions probably is approximately 5 per cent, which is considerably less than the 10 to 15 per cent or more that typifies private sector unionism.[43] However, a recent study that accounts for the fact that unionism may be a result of, as well as a cause of, high wages suggests that the impact of police unions may be substantially greater when this relationship is considered.[44] In addition, there is some recent evidence indicating that the impact of unions in the public sector may be increasing, relative to the impact of unions in the private sector.[45]

In part because of a lack of micro-data which provide the union status of individuals, few Canadian studies have been made of the impact of unions, even in the private sector. None of the five union-impact studies which were based on Canadian data[46] give any evidence of the union impact in the public sector. A recent paper by Robinson and Tomes[47] utilized a new micro-data set, the Social Change in Canada Survey for 1979, which does provide information on the union status of individuals. The results suggest that the public sector wage advantage may, in fact, primarily reflect the recent increase in unionization in that sector.

Clearly, more data and empirical work within the Canadian context are needed before any generalizations can be made about the impact of unions on wages in the public sector and, ultimately, on the public/private sector wage differential. At this stage, all that can be said is that the public sector wage advantage did emerge at the same time that much of the growth of public sector unions took place. Whether the unions caused the wage advantage, arose in order to protect it, arose in response to the wage advantage, or are unconnected with it remain interesting, but unanswered, questions. The fact that the potential for union growth is almost exhausted in the public sector does suggest that any wage advantage that is fostered by public sector unions is likely to increase in the future, especially if the union impact tends to be greatest in the earliest years of organizing, as occurred in the private sector.

The Male/Female Wage Gap in the Public and Private Sectors

One of the generalizations that emerged from the previous consideration of the empirical literature was that the public sector wage advantage was greater for females and for low-wage workers (who tend to be female) than it was for males. This advantage may arise from the greater degree of unionization that exists in the public sector, although the public sector wage advantage for females was also found to be greater in the United States, where the extent of unionism in the private and public sectors is quite similar. The greater public sector wage advantage for females may also reflect a desire on the part of the public sector to set an example for the private sector, and it may reflect the greater sensitivity of public sector employers to political pressures that make it more difficult for them to discriminate against such a large and politically empowered group. In addition, because of the absence of a profit constraint, employers in the public sector may pay wages higher than the alternative wages available to females, which may be low as a result of wage discrimination or the segregation of females in low-wage jobs.

Whatever the reason, the public sector wage advantage appears to be greater for females than it is for males. This has important policy implications, since it suggests that policies to curb public sector wages will fall disproportionately on females (as well as the other low-wage workers who enjoyed the greater advantage). This may offset, at least in part, other policies designed to improve the market position of females and of low-wage workers in general.

Wage Controls

One of the most common policy initiatives to curb public sector wages is wage controls. The wage controls introduced in Canada in 1975, although applied generally to both the public and private sectors, were imposed largely in response to unusually high public sector settlements existing at that time.[48] Basically, the controls involved wage ceilings of 8, 6 and 4 per cent in the first, second and third years of the program, respectively, to be added to a 2 per cent national productivity factor. They also provided exemptions for low-paid workers and an absolute dollar ceiling of $2400 for higher-paid workers. Both of these measures were likely to constrain the earnings of workers in the public sector more than the earnings of those in the private sector, given the higher average earnings of public sector workers. The guidelines also allowed exemptions for wage increases necessary to eliminate sex discrimination or recruiting problems, neither of which were likely to be as prevalent in the public sector as in the private sector. In addition, the controls were to apply to all workers in the public sector, whereas they applied only to firms of more than 500 employees in the private sector (and, in the construction industry, only to firms of more than twenty employees). Clearly, the details of the controls program provided a potentially more constraining influence in the public sector than in the private sector. Empirical evidence in Canada does indicate that the guidelines imposed by the Anti-Inflation Board were more stringent in the public sector than in the private sector,[49] and that the controls were more stringent, in that the Anti-Inflation Board made fewer actual awards to groups in the public sector than it did to groups in the private sector with the same guideline and negotiated increase.[50]

During 1982, the federal government and some provincial governments have again instituted wage controls, in part because of their own fiscal crises and in part to set a precedent for the private sector. The fact that the current controls apply only to wages, not prices, and only within the public sector, suggests a very specific focus on public sector wages as the cause of macroeconomic problems. Details of the federal and Ontario legislation are outlined in a later chapter by Panitch and Swartz, who characterize the controls of 1982 as marking the end of an era of free collective bargaining in Canadian industrial relations.

The Role and Effect of Arbitration

The role and effect of arbitration on wage determination in the public sector is a subject of considerable controversy. There is, of course, no inherent reason for arbitration to impart an upward bias, especially if such decisions are based on the desire to emulate what would have happened under free collective bargaining. Nevertheless, there are some features of arbitration that may impart an upward bias.

It has been claimed that the unique feature of the federal system in Canada, which allows the bargaining agent to choose arbitration or a strike route (with conciliation), gives workers an unfair advantage because they can get at least a competitive wage out of the arbitration process and can then shift to the strike route to satisfy even more demands, without facing any threat of being locked out. Weaker unions, on the other hand, will keep to the arbitration route, through which they will be awarded the settlements of the stronger unions that have followed the strike route. In addition, to the extent that arbitrators have moved towards awarding 'just' or 'decent' wages for low-wage workers, they have raised the wages of these workers relative to those of their private sector counterparts. Other alleged features of arbitration, such as the possibility that arbitrators will follow the patterns established by strong public sector unions,[51] the refusal of some arbitrators to follow wage controls or to pay attention to the employers' ability to pay, or the fact that arbitrators are not directly accountable to the political process, are more difficult to assess. Clearly, they can exist and, in some cases, impart an upward bias; nevertheless, low-wage settlements can also be emulated, and some arbitrators can restrain the upward movement of public sector settlements to set examples for other sectors or to facilitate the ability of employers to pay.

While these features of arbitration can work both to increase and to decrease wage settlements, there are forces at work which suggest that any bias imparted by arbitration is likely to be short lived. The possibility of 'intertemporal compromise' has been advanced to show that final-offer settlements, which may be disproportionate in any given bargaining round (because the arbitrator could not compromise between the final offers), can be rectified in subsequent rounds because the new offers will take account of the wage levels that were attained previously.[52] This same argument can be applied to all arbitrated settlements and may show that any bias that occurs in a round of bargaining is likely to be offset through intertemporal compromise. Thus, arbitrated anomalies are likely to exist only in the short run and will be rectified in the long run. However, this pattern can make public sector settlements more volatile than those in the private sector, with 'catch-ups' occurring more frequently and unusually high settlements dissipating in the long run.

Unfortunately, the empirical literature that discusses the effect of arbitration on wage settlements also fails to yield unambiguous conclusions. After reviewing numerous studies from Canada and elsewhere, Downie, Anderson and Gunderson[53] conclude that most studies tend to show arbitration as having a modest effect on the increase of wages. However, they emphasize that there are numerous exceptions to this general pattern, and that it is very difficult to construct a research design that allows the separate influence of arbitration to be ascertained. With respect to the area that has received the most attention — namely, the federal sector, which offers the union its choice of dispute-resolution procedure — Saunders[54] does not find any evidence of an upward bias being associated with the arbitration route.

Summary, Future Trends and Policy Implications

Summary

There are theoretical reasons to suggest that compensation may differ between the public and private sectors, even for the same worker or the same type of work. Compensation differences can reflect short-run adjustments, non-pecuniary differences, non-competitive factors and, possibly, administrative rules. While these features can either increase or decrease compensation in the public sector, relative to the private sector, there is a built-in upward bias to public sector wages because the forces of competition will provide a floor for such wages, but need not provide a ceiling. In addition, there is a real danger that public sector wage costs may be deferred to future generations, in the form of the costs of pension and retirement commitments and job security given to current generations of wage-earners.

This upward bias in wages tends to be confirmed by the empirical evidence, although there is considerable diversity in the advantage, which typically ranges from 1 to 15 per cent, with estimates outside of that range (including negative estimates) not uncommon. The advantage is greater for females and low-wage workers and, in fact, usually becomes a disadvantage at high salary levels. It is also extremely volatile, with unusually large settlements often reflecting a catch-up process and dissipating over time. The public/private sector wage differential has changed considerably over the last thirty years, from being a disadvantage in the 1950s to being an advantage in the 1960s and 1970s. There is some limited evidence to suggest that, in recent years, the advantage may have been dissipating. In essence, public sector wages can currently be characterized as having an upward bias, but also as exhibiting diversity, volatility and change. The evaluation of fringe benefits and other non-wage aspects of employment does not diminish this upward bias, and, in fact, probably exacerbates it. This is especially the case with respect to deferred cost items, such as pension and retirement benefits and job security.

Future Trends

The emergence of the upward bias in public sector wages during the 1960s and 1970s should not be surprising, given the changes in the underlying determinants of the public/private sector wage differential that were occurring at that time. The growth of the public sector and of unionism within that sector; the increased tax revenues of governments, which were facilitated by substantial growth and infl[illegible]; the political and militant activity of many groups, including p[illegible]tor workers; and the possibility of the private sector catchi[illegible]he public sector in many fringe benefits and non-wage asp[illegible] employment: all of these factors can give rise to greater wage [illegible]eases in the public sector, relative to the private sector.

These factors suggest that the wage advantage may dissipate somewhat in the future, to the extent that, at present, public sector growth is curbed, unionism is as extensive as it can become in that sector, and the militancy that is associated with the early stages of union organizing is replaced by maturation and is required to confront the new taxpayer militancy and the fiscal crises of many governments. Quite simply, the public sector may not be 'the place to be' in the future. In addition, if the current pronounced recession ends, private sector wages may increase more rapidly than public sector wages, to the extent that private sector wages are more sensitive to cyclical fluctuations in the economy. This will be especially true if many of the deferred cost commitments pertaining to pension and retirement benefits and job security are not fully acknowledged by future taxpayers.

Policy Implications

The countervailing forces that are at work suggest that drastic policy initiatives may not be necessary to curb any public sector wage advantage that may prevail. This suggestion is reinforced by the fact that unusually high public sector settlements — and these are the ones that catch the public eye — tend to be temporary, and the burden of any policy to curb the public sector wage advantage will fall disproportionately on females and on low-wage workers in general. Additional experience with such features as arbitration, comparability surveys and the costing of non-wage items presumably will also provide more sophistication in compensation decisions.

This does not mean, however, that policy initiatives are not required. Our current industrial relations system in the public sector has neither a long history nor extensive experience to guide it. Labour relations in the public sector are obviously in an embryonic state of flux and, hence, alterations and fine-tuning are entirely appropriate. Increased sophistication in our use of arbitration criteria, comparability data and the costing of non-wage items, for example, will all facilitate appropriate adjustments in total compensation. In addition, increased knowledge of public sector industrial relations on the part of politicians and the general public is absolutely essential, given the ultimate political nature of bargaining in that sector. Taxpayers and politicians are to the public sector what customers and the boardroom are to the private sector; a fair degree of knowledge and awareness is necessary to make both systems operate. Only with such knowledge can we be assured that the ultimate political constraint of the public sector will not be characterized by neglect and, ultimately, over-reaction.

Acknowledgements

I would like to thank the editors for their substantive suggestions, Richard Kalwa, Jeanne Li and David R. Smith for their research assistance, and the staff of the Centre for Industrial Relations for their librarian assistance.

Morley Gunderson

Notes

1. M. Gunderson, *Labour Market Economics: Theory, Evidence and Policy in Canada*.
2. M. Gunderson, *Public-Private Sector Differences and Implications for Wage Determination*.
3. R.P. Inman, "Wages, Pensions, and Employment in the Local Public Sector".
4. R.G. Ehrenberg and R.S. Smith, "A Framework for Evaluating State and Local Government Pension Reform".
5. E. Lazear and S. Rosen, "The Economics of Compensation of Government Officials".
6. L.M. Spizman, "Public Employee Unions: A Study in the Economics of Power".
7. R.G. Ehrenberg, "The Demand for State and Local Government Employees".
8. D. Lewin and S.B. Goldenberg, "Public Sector Unionism in the U.S. and Canada"; B.W. Hondale, "A Model of the Public Sector Wage Determination Process".
9. D. Lewin and M. McCormick, "Coalition Bargaining in Municipal Government: The New York City Experience".
10. H.C. Katz and D. Lewin, "Efficiency and Equity Considerations in State and Local Government Wage Determination".
11. A. Ponak, "Public-Sector Collective Bargaining".
12. M. Gunderson, "Public-Private Wage and Non-Wage Differentials in Canada: Some Calculations from Published Tabulations"; *Labour Market Economics*.
13. M. Gunderson, "Public Sector Wage Determination: A Review of the Literature".

14. Gunderson, "Public-Private Wage and Non-Wage Differentials in Canada", Tables 7.1, 7.3 and 7.7; *Labour Market Economics*, Table 2.
15. Gunderson, "Public-Private Wage and Non-Wage Differentials in Canada", Table 7.4.
16. M. Gunderson, "Earnings Differentials Between the Public and Private Sectors".
17. S.P. Smith, *Equal Pay in the Public Sector: Fact or Fantasy;* "Public/Private Wage Differentials in Metropolitan Areas".
18. Gunderson, *Labour Market Economics*, p. 266.
19. D. Lewin, "Mayoral Power and Municipal Labor Relations: A Three-City Study".
20. J.M. Cousineau and R. Lacroix, *Wage Determination in Major Collective Agreements in the Private and Public Sectors.*
21. D. Auld, L. Christofides, R. Swidinsky and D. Wilton, *The Determinants of Negotiated Wage Settlements in Canada (1966–1975).*
22. D.A. Auld, *Wage Behaviour and Wage Control in the Public Service.*
23. S. Christensen, "Collective Bargaining in Provincial Public Administration".
24. M. Gunderson, *Criteria for Public Sector Wage Determination.*
25. W. Fogel and D. Lewin, "Wage Determination in the Public Sector"; R.E. Hall, "Turnover in the Labor Force"; J.E. Long, "Are Government Workers Overpaid? Alternative Evidence".
26. E.G. Fisher (this volume) has used disequilibrium quantity measures in his study of police/fire-fighter wage parity.
27. F.E. Block and S.P. Smith, "Human Capital and Labor Market Employment"; Fogel and Lewin, "Wage Determination in the Public Sector".
28. J.F. Quinn, "Wage Differentials Among Older Workers in the Public and Private Sectors".
29. R. Marcou, "Comparing Federal and Private Employee Benefits"; "Federal Employee Compensation: Past Experience and Future Prospects".
30. J.F. Quinn, "Compensation in the Public Sector: Are Civil Servants Overpaid?"
31. D. Bellante and A.N. Link, "Are Public Sector Workers More Risk Averse than Private Sector Workers?"
32. Thorne, Stevenson and Kellog, *Employee Benefit Costs in Canada.*
33. Gunderson, "Public-Private Wage and Non-Wage Differentials in Canada", pp. 148–51.
34. J. Pesando, "Valuing Pensions (Annuities) with Different Types of Inflation Protection in Total Compensation Comparisons".

35. M.W. Reder, "The Theory of Employment and Wages in the Public Sector".
36. T.J. Wilkins, "Wage and Benefit Determination in the Public Service of Canada".
37. D. Morley, "Managerial Compensation in the Federal Public Service", p. 17.
38. R.W. Hartman and A.R. Weber, *The Rewards of Public Service: Compensating Top Federal Officials.*
39. Evidence for this point is discussed in Lazear and Rosen, "The Economics of Compensation of Government Officials", p. 108.
40. G.S. Goldstein and R.G. Ehrenberg, "Executive Compensation in Municipalities"; Lazear and Rosen, "The Economics of Compensation of Government Officials".
41. S. Christensen, *Unions and the Public Interest.*
42. Ponak, "Public-Sector Collective Bargaining".
43. Various American studies are reviewed in Smith, *Equal Pay in the Public Sector*; D. Lewin, R. Horton and J. Kuhn, *Collective Bargaining and Manpower Utilization in Big City Governments*; D. Mitchell, "The Impact of Collective Bargaining on Compensation in the Public Sector"; B.W. Hondale, "Wage Determination in the Public Sector: A Critical Review of the Literature".
44. A. Bartel and D. Lewin, "Wages and Unionism in the Public Sector".
45. W.J. Moore and J. Raisian, "Public-Sector Union Wage Effects".
46. Reviewed in M. Gunderson, "Union Impact on Wages, Fringe Benefits, and Productivity".
47. C. Robinson and N. Tomes, "Union Wage Differentials in the Public and Private Sectors: A Simultaneous Equation Specification".
48. T.J. Courchene, "Post-Controls and the Public Sector".
49. F. Reid, "Wage-and-Price Controls in Canada".
50. D. Foot and D. Poirier, *The Compensation Decisions of the Anti-Inflation Board: An Empirical Analysis*, p. 83; A.M. Maslove and G. Swimmer, *Wage Controls in Canada, 1975–78: A Study of Public Decision Making.*
51. Courchene, "Post-Controls and the Public Sector", p. 173.
52. G. Swimmer, "Final Position Arbitration and Intertemporal Compromise: The University of Alberta Compromise".
53. B. Downie, *The Behavioural, Economic and Institutional Effects of Compulsory Interest Arbitration*; J.C. Anderson, "The Impact of Arbitration: A Methodological Assessment", M. Gunderson, *Economic Aspects of Interest Arbitration.*
54. G. Saunders, *Interest Abritration and Wage Inflation in the Federal Public Service.*

Appendix 1-1: *Ratio of Municipal/Manufacturing Wages of Labourers in Various Communities, 1952 to 1973*

	Average Ratio by Time Period			*Trend*[a]
Community	*1952–73*	*1952–62*	*1963–73*	*1952–73*
Halifax	1.00	1.06	0.95	falling
Sydney	0.94	0.90	0.98	rising
St. John	1.09	1.14	1.03	falling
Cap de la Madeleine	0.90	0.69	1.09	rising
Hull	0.84	0.76	0.92	min 1956
Montreal	1.10	1.00	1.19	rising
Quebec	0.95	0.84	1.06	rising
Shawinigan	1.05	0.89	1.23	max 1967
Sherbrooke	1.21	1.12	1.30	rising
Trois-Rivières	1.02	0.81	1.21	max 1973
Brantford	1.06	1.03	1.08	rising
Cambridge	1.08	1.00	1.17	rising
Chatham	0.98	0.98	0.99	min 1964
Cornwall	0.92	0.85	0.99	rising
Guelph	1.04	0.98	1.09	rising
Hamilton	0.96	0.91	1.01	rising
Kitchener	1.04	1.01	1.07	rising
London	1.05	1.01	1.09	max 1968
Niagara Falls	1.00	0.95	1.05	rising
Oshawa	1.03	0.95	1.11	min 1958
Ottawa	1.13	1.12	1.14	max 1968
Peterborough	1.05	1.03	1.08	max 1966
St. Catharines	0.97	0.95	0.98	rising
Sarnia	0.95	0.95	0.94	max 1961
Sault Ste. Marie	1.00	0.99	1.01	max 1963
Sudbury	0.91	0.90	0.93	min 1963
Thunder Bay	0.97	0.92	1.02	rising
Toronto	1.17	1.10	1.23	rising
Windsor	0.99	0.96	1.02	min 1960
Woodstock	1.01	0.96	1.06	rising
Winnipeg	1.07	1.01	1.12	rising
Regina	1.00	0.98	1.02	min 1961
Saskatoon	0.95	0.92	0.98	max 1969
Calgary	1.05	1.00	1.09	rising
Edmonton	1.06	1.04	1.08	max 1965
Vancouver	1.01	1.03	0.99	max 1959
Victoria	0.93	0.90	0.95	rising
Average	1.01	0.96	1.06	

Source: Computed from data in *Wage Rates, Salaries and Hours of Labour,* Canada, Department of Labour, annual.

Note

a. Obtained from the regression $Y = a + bT + cT^2$ where Y is the ratio of public (municipal) to private (manufacturing) wages for each community and T is a non-linear time trend, coded as the last two digits of the sample period years, 1952 to 1973. The resulting estimates enable the calculation of the year when the ratio reached its maximum or minimum value (that is, critical value when $\delta Y/\delta T = 0$, which occurs when $T = b/2c$. The critical value of the ratio is a maximum if $\delta^2 Y/\delta T^2 = 2c < 0$ and a minimum if $2c > 0$.

When the critical value occurred within the sample period of the data (1952 to 1973), the year of the maximum or minimum value is given in the table. If the critical value occurred outside the sample period, the trend is described as falling if the maximum was reached prior to 1952, or if the minimum was reached after 1973; the trend was described as rising if the minimum was reached prior to 1952, or if the maximum was reached after 1973. The raw data, full regression results and calculations are available from the author on request.

Appendix 1-2: *Regression Coefficients and Ratio Calculations of Municipal/Manufacturing Wages of Labourers in Various Cities, 1952 to 1980*[a]

	Regression Coefficients[b]					
Cities	*Constant*	*Time*	*Time Sq.*	*Year of Max. or Min.*[c]	*Ratio at Max. or Min.*[d]	*Average Ratio*
		(10^{-2})	(10^{-4})			
Halifax	3.36	-6.90	4.96	min 1970	0.96	1.00
Montreal	–3.91	14.76	–10.70	max 1969	1.18	1.09
Quebec	–1.56	6.53	–3.99	max 1982	1.11	0.97
Hamilton	–1.62	7.45	–5.29	max 1970	1.00	0.96
Kitchener	–1.40	7.24	–5.28	max 1969	1.08	1.04
Ottawa	–3.21	13.57	–10.50	max 1965	1.17	1.12
St. Catharines	–1.12	6.40	–4.86	max 1966	0.99	0.96
Toronto	–1.83	8.78	–6.31	max 1970	1.22	1.16
Vancouver	–0.24	4.38	–3.76	max 1958	1.04	0.99
Victoria	0.62	0.62	–0.21	max 2048	1.08	0.93

Source: As in Appendix 1–1.

Notes

a. Updated data for the years after 1973 was available only for 1977, 1979 and 1980 and it was not always complete for each of the cities.

b. From the regression as given in Note *a* of Appendix 1-1.

c. Calculated as the year in which the ratio reached its maximum or minimum value, as in Note *a* for Appendix 1-1.

d. Fitted value of the ratio, calculated for the year when the ratio reaches its maximum or minimum value.

Bibliography

Anderson, James C. "The Impact of Arbitration: A Methodological Assessment". *Industrial Relations* 20 (No. 2 1981): 129–48.

Auld, D.A. *Wage Behaviour and Wage Control in the Public Service.* Discussion Paper No. 137. Ottawa: Economic Council of Canada, 1979.

Auld, D.; Christofides, L.; Swidinsky, R.; and Wilton, D. *The Determinants of Negotiated Wage Settlements in Canada (1966–1975).* Ottawa: Minister of Supply and Services Canada, 1979.

Bartel, Ann and Lewin, David. "Wages and Unionism in the Public Sector: The Case of Police". *Review of Economics and Statistics* 63 (February 1981): 53–59.

Bellante, Don and Link, Albert N. "Are Public Sector Workers More Risk Averse Than Private Sector Workers?" *Industrial and Labor Relations Review* 34 (April 1981): 408–12.

Bloch, Farrell E. and Smith, Sharon P. "Human Capital and Labor Market Employment". *Journal of Human Resources* 12 (Fall 1979): 550–601; and 14 (Spring 1979): 267–69.

Christensen, Sandra. "Collective Bargaining in Provincial Public Administration". *Relations Industrielles* 36 (No. 3 1981): 616–28.

Christensen, Sandra. *Unions and the Public Interest: Collective Bargaining in the Government Sector.* Vancouver: Fraser Institute, 1980.

Courchene, Thomas J. "Post-Controls and the Public Sector" in *Which Way Ahead: Canada After Wage and Price Control,* pp. 141–81. Vancouver: Fraser Institute, 1977.

Cousineau, Jean-Michel and Lacroix, Robert. *Wage Determination in Major Collective Agreements in the Private and Public Sectors.* Ottawa: Economic Council of Canada, 1977.

Downie, B. *The Behavioural, Economic and Institutional Effects of Compulsory Interest Arbitration.* Discussion Paper No. 147. Ottawa: Economic Council of Canada, 1979.

Ehrenberg, Ronald G. "The Demand for State and Local Government Employees". *American Economic Review* 63 (June 1973): 366–79.

Ehrenberg, Ronald G. and Smith, Robert S. "A Framework for Evaluating State and Local Government Pension Reform" in *Public Sector Labor Markets*, edited by Peter Mieszkowski and

George Peterson, pp. 103–28. Washington, D.C.: Urban Institute, 1981.

Fisher, E.G. "Compensation for Uniformed Security Forces in Canada: Police/Fire-Fighter Wage Parity and Related Issues" in *Conflict or Compromise*, edited by Mark Thompson and Gene Swimmer. Montreal: The Institute for Research on Public Policy, 1984.

Fogel, Walter and Lewin, David. "Wage Determination in the Public Sector". *Industrial and Labor Relations Review* 27 (No. 3 1974): 410–31.

Foot, D. and Poirier, D. *The Compensation Decisions of the Anti-Inflation Board. An Empirical Analysis.* Ottawa: Minister of Supply and Services Canada, 1980.

Goldstein, Gerald S. and Ehrenberg, Ronald G. "Executive Compensation in Municipalities". *Southern Economic Journal* 43 (July 1976): 937–47.

Gunderson, M. *Criteria for Public Sector Wage Determination.* Ottawa: Anti-Inflation Board, 1977.

Gunderson, M. "Earnings Differentials Between the Public and Private Sectors". *Canadian Journal of Economics* 12 (May 1979): 228–42.

Gunderson, M. *Economic Aspects of Interest Arbitration.* Toronto: Ontario Economic Council, 1983.

Gunderson, M. *Labour Market Economics: Theory, Evidence and Policy in Canada.* Toronto: McGraw-Hill Ryerson, 1980.

Gunderson, M. *Public-Private Sector Differences and Implications for Wage Determination.* Ottawa: Anti-Inflation Board, 1977.

Gunderson, M. "Public-Private Wage and Non-Wage Differentials in Canada: Some Calculations from Published Tabulations" in *Public Employment and Compensation in Canada: Myths and Realities*, edited by David K. Foot, pp. 127–66. Toronto: Butterworth for The Institute for Research on Public Policy, 1978.

Gunderson, M. "Public Sector Compensation in Canada and the U.S." *Industrial Relations* 19 (No. 3 1980): 257–71.

Gunderson, M. "Public Sector Wage Determination: A Review of the Literature" in *Public Employment and Compensation in Canada: Myths and Realities*, edited by David K. Foot, pp. 167–88. Toronto: Butterworth for The Institute for Research on Public Policy, 1978.

Gunderson, M. "Union Impact on Wages, Fringe Benefits, and Productivity" in *Union-Management Relations in Canada*, edited by John Anderson and Morley Gunderson. pp. 247–68. Toronto: Addison-Wesley, 1982.

Hall, Robert E. "Turnover in the Labor Force". *Brookings Papers on Economic Activity* 3 (1972): 709–56.

Hartman, Robert W. and Weber Arnold R., eds. *The Rewards of Public Service: Compensating Top Federal Officials*. Washington, D.C.: Brookings Institution, 1980.

Hondale, Beth Walter. "A Model of the Public Sector Wage Determination Process — With Special References to Industrial Factors". *Journal of Collective Negotiations* 10 (No. 2 1981): 105–22.

Hondale, Beth Walter. "Wage Determination in the Public Sector: A Critical Review of the Literature". *Journal of Collective Negotiations* 10 (No. 4 1981): 309–25.

Inman, Robert P. "Wages, Pensions, and Employment in the Local Public Sector" in *Public Sector Labor Markets*, edited by Peter Mieszkowski and George Peterson, pp. 11–57. Washington, D.C.: Urban Institute, 1981.

Katz, Harry C. and Lewin, David. "Efficiency and Equity Considerations in State and Local Government Wage Determination" in *Proceedings of the 33rd Annual Meeting of the Industrial Relations Research Association* (Denver, 5–7 September 1980), edited by Barbara D. Dennis, pp. 90–98. Madison: The Association, 1981.

Lazear, Edward and Rosen, Sherwin. "The Economics of Compensation of Government Officials" in *The Rewards of Public Service: Compensating Top Federal Officials*, edited by Robert W. Hartman and Arnold R. Weber, pp. 101–39. Washington, D.C.: Brookings Institution, 1980.

Lewin, David. "Mayoral Power and Municipal Labor Relations: A Three-city Study". *Employee Relations Law Journal* 6 (Spring 1981): 635–65.

Lewin, David and Goldenberg, Shirley B. "Public Sector Unionism in the U.S. and Canada". *Industrial Relations* 19 (No. 3 1980): 239–56.

Lewin, David; Horton, Raymond; and Kuhn, James. *Collective Bargaining and Manpower Utilization in Big City Governments*. New York: Universe Books, 1979.

Lewin, David and McCormick, Mary. "Coalition Bargaining in Municipal Government: The New York City Experience". *Industrial and Labor Relations Review* 34 (No. 2 1981): 175–90.

Long, James E. "Are Government Workers Overpaid? Alternative Evidence". *Journal of Human Resources* 17 (No. 1 1982): 123–31.

Marcou, Ross A. "Comparing Federal and Private Employee Benefits". *Civil Service Journal* 19 (October/December 1978): 14–18.

Marcou, Ross A. "Federal Employee Compensation: Past Experience and Future Prospects". *Eastern Economic Journal* 5 (December 1979): 477–89.

Moore, William J. and Raisian, John. "Public-Sector Union Wage Effects: A Time Series Analysis". *Monthly Labor Review* 105 (June 1981): 51–53.

Morley, D. "Managerial Compensation in the Federal Public Service". Toronto: Third Canadian Compensation Conference, 1977.

Munnell, Alicia H. and Connolly, Ann M. "Comparability of Public and Private Compensation: The Issue of Fringe Benefits". *New England Economic Review* (July/August 1979): 27–45.

Pesando, J. "Valuing Pensions (Annuities) with Different Types of Inflation Protection in Total Compensation Comparisons". Toronto: University of Toronto, 1982. (mimeo)

Ponak, Allen. "Public-Sector Collective Bargaining" in *Union-Management Relations in Canada*, edited by John Anderson and Morley Gunderson, pp. 343–78. Toronto: Addison-Wesley, 1982.

Quinn, Joseph F. "Wage Differentials Among Older Workers in the Public and Private Sectors". *Journal of Human Resources* 14 (Winter 1979): 41–62.

Maslove, Allan M. and Swimmer, Gene. *Wage Controls in Canada 1975–78: A Study of Public Decision Making*. Montreal: The Institute for Research on Public Policy, 1980.

Mitchell, Daniel. "The Impact of Collective Bargaining on Compensation in the Public Sector" in *Public-Sector Bargaining*, edited by Benjamin Aaron, Joseph Grodin and James Stern, pp. 118–49. Madison: Industrial Relations Research Association, 1979.

Quinn, Joseph F. "Compensation in the Public Sector: Are Civil Servants Overpaid?" Paper presented at the 36th Congress of the International Institutes of Public Finance, Jerusalem, 1980.

Reder, Melvin W. "The Theory of Employment and Wages in the Public Sector" in *Labor in the Public and Nonprofit Sectors*, edited by Daniel S. Hamermesh, pp. 1–48. Princeton: Princeton University Press, 1975.

Reid, Frank. "Wage-and-Price Controls in Canada" in *Union-Management Relations in Canada*, edited by John Anderson and Morley Gunderson, pp. 482–502. Toronto: Addison-Wesley, 1982.

Robinson, Chris and Tomes, Nigel. "Union Wage Differentials in the Public and Private Sectors: A Simultaneous Equation Specification". Research Report 8307. London: University of Western Ontario, Department of Economics, 1983.

Saunders, George. *Interest Arbitration and Wage Inflation in the Federal Public Service*. Discussion Paper No. 162. Ottawa: Economic Council of Canada, 1980.

Smith, Sharon P. *Equal Pay in the Public Sector: Fact or Fantasy*. Princeton: Princeton University, Industrial Relations Section, 1977.

Smith, Sharon P. "Public/Private Wage Differentials in Metropolitan Areas" in *Public Sector Labor Markets*, edited by Peter Mieszkowski and George Peterson, pp. 81–102. Washington, D.C.: Urban Institute, 1981.

Spizman, Lawrence M. "Public Employee Unions: A Study in the Economics of Power". *Journal of Labor Research* 1 (Fall 1980): 265–73.

Swimmer, Gene. "Final Position Arbitration and Intertemporal Compromise: The University of Alberta Compromise". *Relations Industrielles* 30 (No. 3 1975): 533–36.

Thorne, Stevenson and Kellog Associates. *Employee Benefit Costs in Canada*. 1981.

Wilkins, T.J. "Wage and Benefit Determination in the Public Service of Canada" in *Collective Bargaining in the Public Service*, pp. 57–84. Toronto: Institute of Public Administration of Canada, 1973.

2: *Compensation for Uniformed Security Forces in Canada: Police/Fire-Fighter Wage Parity and Related Issues*

E.G. FISHER

E. G. **Fisher** is Associate Professor, Faculty of Business and Commerce, University of Alberta.

Contents

Introduction 49
Objectives and Methodology 50
Fair Comparisons and Comparabilities 51
The Point-Evaluation Method and Pay Parity or Disparity 53
Bargaining Mechanisms, Structures and Parasitic Comparisons 55
Wage Parity and Disparity in Canada, 1977 to 1982 57
Labour Market Influences and Responsiveness 60
Factors Influencing Selected Police and Fire-Fighters' Salaries 62
Selected Facets of Overall Compensation 63
1982 and Key Issues for the Future 65
Developments in 1982, Including Satellite Agreements 66
Conclusion and Possible Trends 67
Acknowledgements 69
Notes 70
Bibliography 79

Compensation for Uniformed Security Forces in Canada: Police/Fire-Fighter Wage Parity and Related Issues

---

Introduction

Should policemen earn more than fire-fighters, or vice versa? Should the members of uniformed security services earn more than their fellow municipal employees? How should the benefit packages for police and firemen relate to each other and to those for other workers? These are but a few of the key questions facing individuals involved in compensation management, wage determination and the resolution of industrial disputes involving police and fire-fighters. While there is some Canadian literature on these issues, the bulk of the research seems to have been done in the United States.[1] In particular, a comprehensive study of police/fire-fighter 'yoking', like those of Craft, Adler, Bird and Robinson, and Lewin, has not been done in Canada.[2] In one American study, Craft investigated the erosion of longstanding police/fire-fighter wage parity. The author looked at municipalities of various sizes in the United States, and studied the period from the 1930s until 'disparity' manifested itself during the 1960s, at which time police departments began to pay higher entry-level wages, in order to attract recruits, than did fire departments.[3] In Craft's view, increased fire-fighter militancy, as expressed, for example, in a greater proclivity to engage in strike activity, was disparity induced. He hypothesized that increased wage disparity and the attendant rise in fire-fighter militancy were associated with an erosion of both the fireman's social status and, in particular, the economic leverage formerly available when municipal employers adhered to a policy of wage parity.[4]

Adler, Bird and Robinson looked at police/fire-fighter wage parity and related issues during the early 1970s in New York State, as well as in the rest of the United States. It was their prognosis that "in the past, the historical, quasi-military, legal, and social status of police and fire-fighters have led the general public to perceive of the two as similar. Dynamic political and social forces in the last decade, however, are forcing the public to view the two groups as distinct and separate. It will become increasingly difficult to demonstrate that their similarities form a rational basis for parity."[5] Adler, Bird and Robinson, and especially Lewin, also focused on certain key factors which might call for a divergence in police and fire-fighter remuneration, including labour-market performance (that is, voluntary quits and the queuing of applicants for vacant positions), promotional opportunities and job content.

Objectives and Methodology

The study contained in this chapter addresses the issues raised above, as well as others. Specifically, it seeks to determine the extent to which there is police/fire-fighter wage yoking across the municipalities in Canada's ten provinces and to isolate the key determinants of police salaries in particular, since the police typically serve (and have served) as the reference group for fire-fighters. It also attempts to assess the impact of compulsory arbitration schemes on the determination of police wages and to discuss possible future trends and issues associated with police/fire-fighter wage yoking.

For this study, a questionnaire was designed to elicit responses in the following areas:

- Size of police force, fire department and municipality
- Nature and extent of police/fire-fighter wage parity during and before 1982
- Relative quit rates and the relative number of applications per vacancy in both the police and the fire-fighting forces
- Orbits of comparison
- Current and future key issues in police and fire-fighters' negotiations
- Extent to which attempts were made to avoid comparisons between police and fire-fighters

- Extent to which police or fire-fighters' associations and their municipal employers (that is, the 'parties') relied upon arbitration during the last five rounds of negotiations
- Timing strategy pursued by the parties during the last five rounds of negotiations.

The questionnaire was mailed to 113 municipal employers, each of whom negotiates not only with a policemen's association, but also with a fire-fighters' association. The response rate was approximately 63 per cent and consisted of seventy-one responses.[6]

Regression analysis was applied to the increases in the police staff and their salaries that occurred in Montreal, Toronto and Vancouver during the period from 1954 to 1975. These cities employ Canada's three major police forces, which were selected primarily because they have traditionally served, since as early as the mid-1950s, as the identifiable reference groups, not only for the remaining police forces in Canada, but also for fire departments. Moreover, the earliest available data concerning policemen's salaries in Montreal, Toronto and Vancouver date from 1954. The year 1975 was deemed to be an appropriate cut-off date, partly for data-collection purposes and partly because of the institution of wage and price controls late in 1975. Correlation analysis was used elsewhere as it was deemed appropriate.

This chapter begins with a very narrow focus on the issue of wage parity; it looks solely at salaries and ignores other factors in the overall compensation package, such as hours. Broader issues of overall compensation parity will be addressed subsequently.

Fair Comparisons and Comparabilities

A key element in the police/fire-fighter yoking issue has traditionally been the alleged absence of a 'fair comparison' among the uniformed services and, most notably, private sector employees. Police and firemen customarily acquire a good deal of craft, or industry-specific, training on the job, which not only distinguishes them from nearly all private sector employees, but also from their municipal counterparts (and, to a certain extent, from each other, as will be discussed below).[7] Craft training, coupled with institutional barriers to mobility, such as non-portable pension plans or personnel decisions based upon or influenced by seniority, restrict interindustrial and interoccupational mobility, thereby exerting a downward pressure on the salaries of police and firemen. Certainly, the members of any occupational group will shift to other occupations, should they perceive net advantages for such action.[8] However, since uniformed services are regarded as essential to public health, safety or welfare, there is an upward pressure on their salaries. In other words, the essential nature of these services created a relatively inelastic demand for them over a certain range of politically acceptable wages.[9] This, in turn, created a range of possible wages for the uniformed services which clearly posed difficult administrative problems for municipal wage-fixing authorities, not only within the uniformed services, but also in relation to other groups of municipal employees.

Prior to the advent of public sector bargaining, city officials and personnel managers often sought standards for establishing and maintaining the wage and benefit hierarchy among the various groups of civic employees. A fire-fighter, for example, sometimes received 90 per cent of a policeman's wage, and so this pattern continued, down the hierarchy, for other civic groups.[10] In the United States, police/fire-fighter wage equality was often established.[11] Subsequently, at the bargaining table or in the interest-arbitration hearing room, the issues and arguments with regard to the police/fire-fighter pecking order typically remained the same, particularly with respect to comparisons of job content.

Comparability arguments invariably focused on the relative risks involved in fire-fighting as compared to law enforcement, the impact of technological change on those risks, the relative amounts of stress in the two uniformed services, and relative supplementary income opportunities.[12] Questions such as the following were asked: Does each and every policeman really 'lay his or her life on the line' every day that he or she is on the job? How applicable to Canada are statistics concerning on-the-job fatalities and injuries to firemen that have been collected by an international trade union operating in both the United States and Canada? Are the chemical fires of today more dangerous than the wood fires of yesterday? What amount of stress confronts police dealing on a daily basis with the public at large and, especially, with criminals? How much stress do fire-fighters face while sleeping, playing volleyball, or polishing the fire truck, as compared with the amount they experience while combating fires? Are not firemen better off than policemen in the sense that they often have three- or four-day blocks of time off, during which they can moonlight?[13] Finally, is the search for an historical, self-evident standard not like the search for the Holy Grail?

At least one expert who has agonized over and reflected a good deal on the nature of comparabilities maintains that to compare police and fire-fighters creates an 'apples and oranges' problem, in which "public sector non-market oranges may be priced by reference to the private sector market price for apples."[14] Moreover, comparisons ultimately involve value (or subjective) judgements. For instance, the expert under discussion views comparability schemes, such as those based on "paired comparisons" and involving "large judging panels. . . of employee, employer and independent representatives", as being based on "a recognition that any comparison of the value of one job with another is subjective and based on subjective criteria."[15] However, he also points out that job evaluation techniques, such as "factor analysis", could be useful, and while such job evaluations could be seriously applied during interest arbitrations, "there should be no illusions that they offer simple solutions to complex problems."[16]

The Point-Evaluation Method and Pay Parity or Disparity

During the past three years, the results of job evaluations based on the point evaluation method were tendered as evidence in a handful of interest arbitrations involving police departments in Ontario and British Columbia.[17] (Apparently, many of these studies had previously been carried out in the United States.)[18] The job evaluation study compared the responsibilities and job descriptions for a first-class fire-fighter with those for a first-class constable. A nine-point evaluation manual was employed and applied to the following major factor groupings: (1) knowledge, abilities and skills, (2) responsibilities, (3) effort, and (4) work environment.[19] The evaluation results were as follows: "the Police Constable is ranked higher in two areas — knowledge, skill and ability, and responsibility. The ranking is equal in effort factors. The position of fire-fighter ranks higher in work environment factors."[20] Applying the nine-point evaluation manual, "the evaluated point worth of the First-Class Fire-fighter position is 83% of the evaluated point worth of the First-Class Police Constable position." In addition, "independent evaluations" performed by another consulting firm indicated that "the evaluated point worth of the First-Class Fire-fighter position is 83% to 85% of the evaluated point worth of the Police Constable position."[21] Significantly, the percentage differential in evaluated point worth did not translate into the same percentage differential between pay levels for the key groups among police and fire-fighters. Other factors to be taken into consideration included "the prevailing rates in the community for comparable jobs, the hours of work, costs, supply and demand factors, etc."[22]

To aid in assessing the results of the study, a "salary trend line for 14 municipal and other public sector organizations" was developed.[23] Using the "representative salary trend line", the relative point evaluation differential of 83 per cent translated into "a pay difference level of 86 – 87%," assuming that the individuals in both positions were on duty an equal number of hours per year.[24] In fact, municipal police forces in Canada typically work forty hours per week, whereas firemen work forty-two hours per week. The differential in the number of hours on duty was two hours (or 5 per cent) per week more for fire-fighters than for policemen in the Hamilton-Wentworth police district, for which the evaluation was conducted. When the 5 per cent difference was added to the previously determined pay ratio of 86 to 87 per cent for firemen over policemen, the result was a *91 to 92 per cent* pay ratio. This ratio, however, was to be treated with caution, as follows:

> We must emphasize: this pay ratio reflects the jobs in Ontario urban centres, is based on recent and current pay conditions, and calculates actual hours on duty.
>
> Other aspects to consider in negotiations are municipal budget constraints and supply and demand factors. These variables are particular to the different cities and cannot be simply quantified.[25]

Such an evaluation clearly is not accepted by all individuals. Two interest arbitrators in British Columbia placed hardly any weight on it because it was not performed jointly by management and the union, and because it was not performed in British Columbia.[26] One of these arbitrators directed the parties to the dispute to "jointly conduct a job evaluation study with the specific objective of establishing a pay comparability position as well as all other benefits of a job and wage analysis."[27] Fire-fighters predictably point to the recommendation, made to the Attorney General of British Columbia in 1975, that there be police/fire-fighter wage parity, including perquisites.[28] The two arbitrators from British Columbia rejected those recommendations, on the ground that they had not "been subjected to any critical examination by employers of firefighters."[29]

A later section of this chapter will deal with the 1982 status of police/fire-fighter wage parity and disparity and its conformity with the 'ideal' 1979 salary ratio for urban municipalities in Ontario of 91 to 92 per cent or, in British Columbia in 1975, of 100 per cent. But it is first necessary to understand how comparisons are drawn and determined.

Bargaining Mechanisms, Structures and Parasitic Comparisons

The bargaining or dispute-resolution machinery within which police and fire-fighters negotiate may influence benefit packages for the uniformed services. In half of Canada's ten provinces, the law allows members of the protective services to strike; those provinces are British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan.[30] However, members of these services may never be permitted to exercise this right in British Columbia,[31] and at least one police force, that of Winnipeg, has relinquished this right in exchange for interest arbitration.

Most lawful police strikes have taken place in Nova Scotia and New Brunswick, and most of the illegal ones have occurred in Quebec. The only lawful strike in western Canada took place in Regina during 1976.[32] It is perhaps surprising that in Canada police tend to strike more frequently than fire-fighters.[33] Some of Canada's police and fire-fighter work stoppages appear to have yielded positive returns when costed against the losses to individual employees, if not in the immediate round of negotiations, then in subsequent ones.[34]

Wage determination in the uniformed services sometimes depends upon the timing of the settlements or awards. Canadian police and fire-fighters' negotiations are characterized by pattern bargaining. Generally speaking, it is the larger municipal police forces in Canada, including those in Montreal, Metropolitan Toronto, and Vancouver, that establish the pattern, which, in turn, filters down through smaller cities to the towns in each province. As a rule, fire departments are thought to settle or receive awards later than police forces and to rely, to a somewhat greater extent, upon arbitration.[35] Settlement or award timing is, of course, a strategic component in the leap-frogging process frequently observed in uniformed services' interest disputes.[36]

In general, the findings of the questionnaire under discussion substantiate the view, described previously, of the police and fire-fighters' bargaining structure across Canada. Police generally compare themselves solely with police, and do so chiefly with their counterparts in large cities. By contrast, the 'orbits of comparison' of fire-fighters consist principally of either police or firemen in large cities.[37] Many municipal employers and their police and fire-fighters' associations (specifically, thirty-two police and thirty-five fire-fighters' services) first wait to assess the settlements and awards granted within the province where they negotiate. Only a very few municipalities and their uniformed services (nine police and seven fire-fighters' services) await the national trend or development before proceeding with their settlements. In addition, uniformed services prefer not to be among the first in the nation to settle, but are inclined to be among the first to settle within their province.[38]

Typically, police and firemen rely on arbitration to very nearly the same extent, namely, 19 per cent and 21 per cent, respectively. The statistics reported below reflect the extent to which parties relied on arbitration during the last five rounds of negotiations:

Number of Interest Arbitration Awards During Last Five Bargaining Rounds

Unit	0	1	2	3	4
Police	26	18	8	3	3
(%)	(44.8)	(31.0)	(13.8)	(5.2)	(5.2)
Fire-fighters	23	27	8	8	1
(%)	(34.3)	(40.3)	(11.9)	(11.9)	(1.5)

Police and firemen clearly were equally reluctant to become involved in two or more arbitrations during the last five rounds of negotiations. Thus, there is virtually no difference in the proclivity of police and fire-fighters for interest arbitration on a nation-wide basis.[39]

The Canadian bargaining structure for protective services-agreement negotiations tends to result in parasitic wage comparisons, which are described as follows:

> The adjudication of salaries for fire fighters is a classic example of parasitic wage comparisons. Because of the unique nature of the work, private sector comparisons cannot be made. Over time, however, relationships between local police and fire fighting salaries have developed with fire fighters' salaries following police salaries by a relatively constant differential. These types of comparisons, when measurable and constant, do afford workable criteria as their popularity in practice suggests, but several factors impede their automatic utilization. Comparisons to others implies *(sic)* that the affected parties will never be leaders within their group. Further, if the whole industry is subjected to arbitration on that basis, in time the

> entire adjudicative enterprise will freeze unless tied to a workable and external comparison. Comparisons depend on a regime of exchange for their vitality and in time this may be displaced by adjudication. The difficulty of finding this "link" for police bargaining is, therefore, crucial to the fire fighter.[40]

In other words, criteria are parasitic when their substance derives from another bargaining process and when they envisage the salaries of one group becoming locked in step with those of another group. There is a perceived risk in the determination of police and fire-fighters' wages that these criteria could devour the very basis of adjudication. One expert has expressed the concern that, especially in Ontario, "the system is incrementally devising a set of prices or wages for a total labour market and is basing its criteria on 'market rates'. Over time, arbitration will displace that very market and the arbitration awards that I have reviewed suggest that this may be happening. Indeed, it may have happened."[41]

The questionnaire used in this study lent some evidence which seems to corroborate the parasitic comparisons hypothesis, particularly as it applied to Ontario. In general, municipal employers in Ontario reported that they encountered considerable difficulties in resisting police/fire-fighter comparisons. No attempt to avoid these comparisons was made in fourteen municipalities, but thirty-six did make such an attempt. Of the thirty-six, thirteen indicated that they were not successful at all, fourteen did not have very much success, eight had some success, and only one was greatly successful. These results stand in contrast to those of Quebec and, especially, Alberta. In Quebec, both of the municipal employers who resisted such comparisons reported a great deal of success; however, four Quebec civic employers did not seek to resist them. Of the four responding Alberta municipalities, two enjoyed great success, one had some success, and one had only very little success.[42]

Wage Parity and Disparity in Canada, 1977 to 1982

In this study, the focus was on police/fire-fighter compensation parity, in the narrowest sense of salary parity. This approach simplified the administration of the questionnaire and avoided some of the anomalies and apparent discrepancies which can occur in the comparison of compensation packages.[43] However, in a later section of this chapter, selected non-salary areas of compensation in Ontario during 1981 are examined.

The rate of response to the questionnaire, by jurisdiction, corresponded with its original jurisdictional distribution. Specifically, 70.4 per cent, or fifty, of the responses came from Ontario. The distribution of the remaining responses was as follows: Quebec, six; Alberta, four; British Columbia, three; Saskatchewan, three; Manitoba, two; Newfoundland, one; Nova Scotia, one; and New Brunswick, one. The number of responses in Quebec was relatively low, as compared to Ontario, because many police in the smaller villages and towns of the former province serve simultaneously as fire-fighters (and, therefore, receive pay parity). Most of the municipalities responding had populations of fewer than 100000, and thirty-six had populations of between zero and 49999 inhabitants. In addition, the preponderance of municipalities employed police or fire-fighting forces consisting of fewer than 250 persons, with the fire departments being, in general, slightly smaller than the corresponding police departments. By contrast, four police and two fire departments employed more than 1000 uniformed personnel.[44]

In January of 1978, the Association of Municipalities of Ontario examined the salary levels of police constables and fire-fighters. The study covered fifty-nine municipalities throughout Ontario, and revealed that in 1977, the ratio of the salaries of fire-fighters to those of policemen averaged 93.5 per cent.[45] The questionnaire discussed in this chapter revealed that during the early part of 1982, base salaries for police (that is, for a first-class constable) exceeded those for fire-fighters (that is, a fifth-year or first-class fire-fighter) in fifty-eight (or 90 per cent) of the respondent cities. Three cities reported police/fire-fighter wage parity and three reported that fire-fighters earn more than police. The marked pay disparity in Canada lies in contrast to the situation in the United States, where wage parity has been somewhat more widely adopted or adhered to.[46] The average ratio of the salaries of fire-fighters to those of policemen was 94.9 per cent for the forty responses specifying the police/fire-fighter pay relationships. (See Table 2-1.)[47] Although the fireman tended to earn about 95 per cent of the policeman's salary, there was considerable dispersion of police/fire-fighter pay ratios, ranging from 72 per cent to 106 per cent.

Because of the small number of responses from the provinces where police and fire-fighters can lawfully strike (New Brunswick, Nova Scotia, Saskatchewan and, to a lesser extent, British Columbia), it is difficult to draw inferences about police/fire-fighter pay relationships in those jurisdictions as compared to those in the remaining provinces, where negotiation is carried out under various compulsory arbitration schemes. There seems to be a general trend

Table 2-1: *The Distribution of Police/Fire-fighter Base-Rate Pay Ratios by Municipalities, Municipality Sizes and Provinces*

Percentage (Police/Fire-Fighters)	*Number of Municipalities*	*Province(s)*	*Size of Municipalities*[a] *A*	*B*	*C*	*D*	*E*
106	*1*	*Nfld. (1)*	*1*				
102	*1*	*Ont. (1)*	*1*				
100	*3*	*Ont. (3)*		*1*	*2*		
99	*7*	*Ont. (6)* *Que. (1)*	*2*	*3*	*1*	*1*	
98	*4*	*Ont. (3)* *B.C. (1)*	*1*	*1*	*2*		
97	*2*	*Ont. (1)* *Alta. (1)*	*1*				*1*
96	*3*	*Ont. (1)* *Que. (1)* *Alta. (1)*	*1*	*1 (1 size unknown)*			
95	*3*	*Ont. (2)* *Que. (1)*	*2*		*1*		
94	*4*	*Ont. (2)* *Alta. (1)* *Sask. (1)*	*2*		*1*	*1*	
93	*1*	*Que. (1)*	*1*				
92	*3*	*Ont. (2)* *Man. (1)*	*2*	*1*			
90	*3*	*Ont. (1)* *Que. (1)* *N.B. (1)*	*3*				
89	*1*	*Ont. (1)*	*1*				
88	*1*	*Sask. (1)*			*1*		
86	*1*	*Ont. (1)*	*1*				
84	*1*	*Ont. (1)*	*1*				
72	*1*	*Ont. (1)*	*1*				
Total	*40*	*Ont. (26)* *Que. (5)* *Alta. (3)* *Sask. (2)* *B.C. (1)* *Man. (1)* *N.B. (1)* *Nfld. (1)*	*21*	*7*	*8*	*2*	*1*

Note

a. Population Categories:
A = 000 – 49 999
B = 50 000 – 99 999
C = 100 000 – 249 999
D = 250 000 – 499 999
E = 500 000 – 749 999
F = 750 000 and over (no observations)

for populous municipalities to pay fire-fighters a higher percentage of police salaries than do small municipalities. (See Table 2-1.)[48]

In the past, fire-fighters infrequently and temporarily received higher remuneration than their municipalities' police forces, but this was, by and large, because of the timing of settlements or arbitration awards. The municipalities were also asked to what extent protective service salaries had crossed over, or surpassed each other, during the past rounds of negotiations. Four municipalities reported one cross-over, four reported two, one had experienced five, and one had experienced eight.[49] Generally speaking, police have enjoyed widespread and long-standing pay superiority as compared to fire-fighters in Canada and, apparently, to a somewhat greater extent than their American counterparts.[50] Moreover, former pay-parity policies had been broken in six responding municipalities. Three cases of previous pay parity occurred in Ontario, two in Quebec and one in British Columbia. One Ontario municipality reverted to parity, while fire-fighters in the remaining two municipalities earned 99 and 98 per cent of the 1982 base salary for the corresponding police force. Perhaps significantly, the pay ratio of the two fire-fighting forces in Quebec dropped during 1982 to 96 and 95 per cent; it was not indicated to what level the one case in British Columbia fell. The switches from parity to disparity stemmed, possibly, from the fact that the composition of arbitration boards can change from one round of negotiations to another, because of their *ad hoc* nature.

Labour Market Influences and Responsiveness

In a study of the City of Los Angeles and Los Angeles County, it was determined that the existing wage-parity policy was inappropriate if labour-market behaviour and activity were taken into consideration. In drawing this conclusion, the study focused on the queuing of applicants for job openings (in order to measure the demand for positions at prevailing wage rates), the number of vacancies and the length of time that they remained vacant (to measure the market-clearing efficiency of the existing wage structure), and quit rates (in order to measure the retention capability of the existing wage regime). It was found that there were relatively longer queues for fire-fighting entry positions, that fire-fighting vacancies were filled more quickly, and that police resigned more frequently.[51] In addition, 38 per cent of the members of New York City's police force who resigned during the course of the eleven years commencing in 1957 obtained jobs with the city's fire department; however, there was absolutely no reverse flow of manpower during this period.[52]

The current study on police/fire-fighter wage yoking did not examine vacancies and the length of time that they remained open. However, the questionnaire did contain questions concerning qualitative impressions of the queuing for police and fire-fighting entry-level positions (that is, the number of applications per vacancy) and the quit rates. In the interest of administrative ease, the relevant questions requested qualitative responses, including such responses as 'very many', 'many', and 'few' applicants or quits.

In general, the job of fire-fighting seems to be more attractive to potential employees than that of law enforcement. Among municipalities in which police earned more than fire-fighters, fourteen reported more applications per vacancy for the job of policeman than for the job of fire-fighter, and five reported a roughly equal number of applicants. In forty-four municipalities there were more applications for fire-fighting positions. Of the municipalities, firemen received less pay than policemen in thirty-three, parity existed in three, fire-fighters earned more in two, and the police/fire-fighter pay relationship was not reported in the remainder. In municipalities reporting a greater number of applicants per fire-department vacancy, twenty-seven reported that there were 'very many' more applicants than police applicants. By contrast, only four muncipalities reported 'very many' more applications for police than for fire-fighters' positions. Pay ratios could be cross-tabulated with the number of applicants per vacancy that favoured the position of policeman, fire-fighter or neither. Predictably, in four of the five cases where more applicants sought positions as policemen than as entry-level fire-fighters, the fire-fighter earned 89 per cent or less of the policeman's salary. Where applications per vacancy favoured firemen, those in twenty-three of twenty-six fire departments earned 90 per cent or more of policemen's salaries. Taken together, these results may indicate that a police/fire-fighter salary ratio which would result in similar numbers of applicants for each opening would be approximately 90 per cent.

Not surprisingly, more police tend to resign from their positions than do fire-fighters. The results were as follows: police severed the employment relationship more often than firemen in forty-three municipalities, fire-fighters severed the relationship more often than police in three municipalities, and in seventeen municipalities, neither group severed the relationship more often than the other. In those cases where more fire-fighters left the job than police, the response was that a 'few' more left. In the cases where more police left, 'very many' more quit in five municipalities, 'many' more quit in fourteen municipalities and a 'few' more quit in twenty-three municipalities.[53] The statistics may reflect the fact that law enforcement was perceived to involve more stress than fire-fighting, or poorer promotional opportunities, a relative pay inequity for job content, or other factors. Clearly, such causality is somewhat speculative in the absence of entry- or exit-interview data. Nevertheless, the statistics tend to support the continuance of a police/fire-fighter wage disparity, with police earning the higher wages.

Factors Influencing Selected Police and Fire-Fighters' Salaries

An attempt was made to determine whether two other factors, namely, municipality size and crime rates, affect wages. Municipality size was used to measure the extent to which salary levels for police and fire-fighters are filtered down from large cities to progressively smaller ones. At least one factor which can disrupt the filtering-down process is, of course, the timing of various settlements and arbitration awards. Municipality size was correlated with the salaries of police and fire-fighters in Ontario in thirty-eight municipalities for which the data were available during 1981. The correlation coefficient between the size of the municipality and the 1981 base salary for policemen was .24, and it was .26 for fire-fighters. Hence, while municipality size, by itself, does not have a significant impact on the salaries of police or fire-fighters, it may have some impact. By contrast, the number of crimes committed in the municipality correlated somewhat better with 1981 base salaries for policemen in Ontario. The correlation coefficient for all crimes was .39; for Criminal Code crimes, it was .39; for violent crimes, it was .37; and for property crimes, .39.[54] Hence, crime statistics seem to be a better predictor of police-salary levels than municipality size.[55]

Regression analysis was applied to the increases in police wages occurring in Montreal, Toronto and Vancouver during the period from 1954 to 1975. The analysis attempted to isolate and investigate the historical impact of selected labour-market variables and mode-of-settlement variables on police salaries in Canada's three major cities, since those police salaries have frequently established the pattern for police and fire-fighters' salaries across Canada. The selected labour-market variables for each city included the unemployment rate, percentage increases in the Consumer Price Index

(CPI) and percentage increases in average weekly wages. The mode-of-settlement variable for Vancouver and Toronto assumed a value of one for each arbitrated salary increase, and a value of zero otherwise. The dichotomous settlement-mode variable for Montreal was equal in value to zero prior to 1970, and equal to one thereafter, in an attempt to measure the impact, if any, of the 1969 Montreal police strike on subsequent settlements, all of which were negotiated.[56]

The regression results for Montreal and Toronto were very poor: they had adjusted R^2 values of 0.00 and 0.19, respectively. By contrast, the Vancouver regression had an adjusted R^2 value of 0.48, but did not differ from zero at the 5 per cent level of statistical significance.[57] One variable in the Vancouver regression, the CPI, had a significantly positive coefficient, as expected.[58] The increase in the city's overall crime rate was added to each regression equation. Certain gaps in the crime-rate data meant that the number of observations was reduced.[59] The adjusted R^2 for Montreal and Toronto remained approximately the same, but it increased for Vancouver to 0.76. Although the Vancouver regression equation 'explained' a significant proportion of the variations in police wages,[60] none of the individual regression coefficients reached statistically significant levels.

Subject to the customary qualifications regarding possible errors in variables, misspecifications, and intercorrelations among variables, it appears that the selected labour-market variables, crime statistics, and modes of settlement had no influence on the determination of police wages in Montreal and Toronto. Together, however, they have exerted some influence on the increased percentages of police salaries in Vancouver.

Selected Facets of Overall Compensation

Compensation packages for the protective services are broad; they extend along many dimensions and range from insurance, pension and health schemes to call-out and overtime rates. Eight such items were selected for comparison with the uniformed services during 1981 in the thirty-eight Ontario municipalities mentioned above. Four of these provisions were selected for comparative purposes: statutory holidays, annual vacation provisions, pension plans and long-term disability provisions. The other four items were chosen to determine the extent of their inclusion in collective agreements covering police and firemen; these items were two-man patrol cars, technological change, contracting out and death-gratuity provisions.

The results relating to the first set of these provisions are as follows. In Table 2-2, average police and fire-fighters' annual leave provisions and the corresponding correlation coefficients are depicted. The averages were nearly the same for both police and fire-fighters, except that fire-fighters usually must serve slightly longer in order to qualify for five- and six-week holidays. Surprisingly, the correlation coefficients were low for the attainment of four and five weeks of annual leave. Fire-fighters' collective agreements tend to provide for supplementary pension-plan contributions more often than police labour contracts do, as is indicated in Table 2-3. It appears that police and firemen have been equally

Table 2-2: *Annual Leave Provisions for the Uniformed Services in 38 Ontario Municipalities during 1981*

Length of Annual Leave in Weeks	Average No. of Years for Police to Qualify (Standard deviation)	Average No. of Years for Firemen to Qualify (Standard deviation)	Pearson Correlation Coefficient
3	3.97 (1.26)	3.97 (1.46)	.39*
4	10.55 (1.54)	10.69 (1.76)	.05
5	18.70 (2.23)	19.47 (2.37)	.19
6	24.85 (2.52)	26.12 (2.64)	.45*

Note: * statistically significant at the 5% level

Table 2-3: *Pension Scheme Contributions for the Uniformed Services by 38 Ontario Municipalities During 1981*

Pension Scheme Contributions	Number of Fire-Fighter Collective Agreements (%)	Number of Police Collective Agreements (%)
1.33% employer	4 (10.5)	1 (2.6)
1% each	13 (34.2)	15 (39.5)
2% employee	5 (13.2)	4 (10.5)
Unspecified	9 (23.7)	—
No provision	7 (18.4)	16 (42.1)

successful in obtaining in their collective agreement pension provisions that are funded wholly or partially by their employers. Since there is no provision for a contributory pension scheme in over 40 per cent of the thirty-eight collective agreements for police, pensions will presumably be a key issue in future negotiations which involve many police forces from Ontario. Finally, fewer fire-fighters' agreements contained limited-term disability schemes than did police agreements in the Ontario municipalities. Death gratuities, however, were equally prevalent in fire-fighters' and police agreements.

With regard to the use of two-man patrol cars, sixteen agreements contained no provision for their use, while fourteen of the agreements restricted the percentage of one-man cars, and eight stipulated the number of hours or shifts to be worked, or made both provisions. The number of fire-fighters' agreements which included a technological change clause was approximately twice that of those which included contracting-out clauses; the latter, presumably, are more difficult to negotiate than the former. The statistics for the inclusion of technological change provisions, as compared with contracting-out provisions, were as follows: thirteen agreements included technological change clauses, and six included contracting-out provisions; eight agreements included no provisions for the former procedure, and eleven included no provisions for the latter; and seventeen gave no response regarding the former procedure, while twenty-one did not respond about the latter.

1982 and Key Issues for the Future

The most important issue facing Canada's uniformed services in 1982 was salaries. Yet one municipality reported that scheduling was the key issue facing its police force. Presumably, twelve-hour shifts (as were recently negotiated in Victoria) and/or a four-day shift (which was achieved in Montreal in 1977) are what were desired.[61] The issues confronting police in 1982, which were secondary, but still important, were scheduling (in seventeen municipalities), benefits (in twelve) and pensions (in ten). In most provinces, police pensions are governed primarily by Superannuation Acts. A few municipal police forces have successfully negotiated pension plans which expand upon pension-benefit levels set forth by statute.[62] Other issues of concern to police included rank structure and promotions. This was probably because fire-fighters enjoyed superior promotional opportunities.[63]

The primary issues for fire departments during 1982 were as follows: salaries (in sixty-six municipalities), scheduling (in one), contracting out (in one), and job security, including such factors as manning or the minimum staffing allowable (in two). Second in priority were benefits (in twenty-one municipalities), pensions (in thirteen), rank structure (in nine), contracting out (in five), and scheduling (in four). The questionnaire revealed that aside from parity and disparity, the most contentious issue for police in the future may be scheduling. Also of importance will be promotions, pensions, limited-term disability programs, and retirement provisions. Fire-fighters will apparently be concerned with job security, in addition to pay parity or disparity. Manning, as well as premium pay, contracting out, and various retirement issues will also be on the bargaining agenda of fire-fighting associations in the future.

Developments in 1981-82, Including Satellite Agreements

Possibly the most important developments that occurred during 1981-82 involved the dissolution of long-standing pay relationships between police and firemen in certain municipalities across the country and the negotiation of 'satellite agreements'. The Quebec Provincial Police and the Royal Canadian Mounted Police (the RCMP) began, during the 1970s, to link their salaries with those of their municipal counterparts through tie-in or satellite agreements.[64] During 1981 and 1982, however, certain satellite agreements were negotiated for the first time between municipal employers and their police or fire-fighting associations.

In 1981-82, there were numerous noteworthy developments, as follows:

- A police strike that took place in Halifax during 1981 resulted in a wage increase which restored the superiority of police salaries over those of fire-fighters. Pay disparity, in turn, was apparently a key reason for the Halifax fire-fighters' strike of 1982.[65]
- Prior to the determination of 1982 police salaries in Calgary, the city and its fire-fighters agreed on a certain percentage increase, as well as a stipulation to increase firemen's salaries to 97 per cent of the salaries of the city's police, should the subsequent police-salary determination diminish the police/fire-fighter pay ratio to less than 97 per cent.
- In the Borough of York, which abuts the City of Toronto, a collective agreement was negotiated during 1981 which guaran-

teed the borough's fire department wage equality, for the following five years, with the Metropolitan Toronto police force, which polices the Borough of York.

- Appendix C of the Vancouver policemen's two-year 1981-82 agreement guaranteed them pay equality with police in Victoria during 1982, should the negotiations in Victoria during that year result in a pay advantage for Victoria's police.
- Fire-fighters in the Greater Vancouver Regional District (GVRD) earned nine dollars per month more during 1982 than did policemen in that area.
- For the first time, salary parity existed among at least ten of British Columbia's twelve unionized, municipal, police forces, effective as of June 1980.[66]
- Many of British Columbia's unionized firemen were paid the same salary as Vancouver's fire-fighters, first in 1981 and then again in 1982. This was, in part, because of satellite arrangements achieved both through negotiations and through arbitration.[67]

Fire-fighter pay superiority in the GVRD came about in 1981, when provisions of the 1981-82 fire-fighters' agreement, negotiated in Surrey (an area which is policed by the RCMP in lieu of a municipally run police force), were incorporated, by means of arbitration, into collective fire-fighters' agreements involving the other suburban municipalities in the Lower Mainland that had fire-fighters' associations.[68] Contracts for both fire-fighters and police in the Lower Mainland contained cost-of-living adjustment, or COLA, clauses for 1982. The two COLA clauses stipulated different triggers, which meant that the final outcome of the police/fire-fighter pay relationship depended on the increase in the Consumer Price Index for Vancouver during 1982. In early 1983, it appeared that neither COLA clause would trigger.[69] Consequently, British Columbia was important in 1982 because of the pay disparity which favoured fire-fighters and because of the nearly province-wide uniformity, not only of police salaries, but also of fire-fighters' salaries.

Conclusions and Possible Trends

Canada's uniformed services tend to negotiate collective agreements with their employers in a fragmented bargaining structure. However, there are some examples of centralized bargaining in British Columbia and Ontario which involve employers' associations and regional police administrations respectively. With respect to the police/fire-fighter wage-parity issue, the bargaining structure seems to be broadening, especially in British Columbia and, to a lesser extent, in Ontario. In particular, some units of fire-fighters are tying their salaries to the salaries of their police counterparts. A future development might be retaliatory satellite agreements, whereby the base salary for police would be guaranteed to be, say, 110 per cent of that of the fire-fighter.[70] In Ontario, it is alleged that there is virtual police/fire-fighter wage parity, especially in light of the settlement in the Borough of York.

Pay parity, however, does not necessarily obtain in Ontario or throughout the country. Indeed, early in 1982 the average police/fire-fighter pay ratio was 95 per cent. However, the development in 1982 of pay disparity, favouring most of British Columbia's fire-fighters, may be a harbinger of things to come. It is significant that the police/fire-fighter pay relationship does not remain static. Rather, it is often in a state of flux, involving pattern bargaining as well as bargaining and arbitration strategies, which are employed by police and fire-fighters' associations and designed to promote leap-frogging. Changing police/fire-fighter pay relationships also stem partially from the fact that different arbitrators and negotiators bring to bear differing views of the job content, attendant risks, and other aspects of fire-fighting, as opposed to those of law enforcement. Unfortunately, interest arbitration does not involve a set of universally applicable criteria and, instead, relies in large part upon decisions which are based on the judgement of the arbitrator, because of the 'apples and oranges' problems that are inherent in the issue of comparability.

The multidimensional aspect of comparing police and fire-fighters' compensation packages, differing power relationships between the parties, quantitative and qualitative differences between municipalities, negotiation frameworks and regional economic performances, coupled with the *ad hoc* composition of arbitration boards, probably means that there will continue to be a variation in the compensation packages of police and fire-fighters across the country, or even within certain regions or parts of the provinces. Nonetheless, as may already have occurred to a certain extent in Ontario and British Columbia during 1982, it may become increasingly difficult to deny pay parity within the protective services.

Over the long term, provided that the rates of crime and fires do not change substantially, at least one of three factors could drive a wedge between police and fire-fighting-service compensation packages: preferences revealed through labour-market activity, technological change, and subcontracting. If the greater number of police leaving their jobs and the longer queues for fire-department vacancies continue in the future, and if these developments have an impact at the bargaining table or in the arbitration hearing room, then pay disparity that is somewhat below the current average of 95 per cent may be justified in the immediate future.

In the future, fire-fighting could conceivably become much more highly mechanized, or it could be conducted largely by robots. The recruiting of police-firemen, who predominate in Quebec, or volunteer firemen could become more widespread throughout the country. Indeed, as was reported above, some fire departments are already deeply concerned about manning and subcontracting. By contrast, law-enforcement services, because they involve both legal problems and personnel problems, might be less susceptible to capital substitution and contracting out, and might become more complex.[71] Certain trial policing programs are aimed at placing more officers on beats, rather than in cars. The widespread adoption of this procedure could increase substantially the job content of police work, thereby creating pressure for increasing police salaries.[72] However, some smaller communities which are served by municipal police have hired private security forces. In addition, 'civilianization' may become more widespread: that is, more civilians may be placed under contract to carry out various functions, such as meter-reading, processing paperwork, dispatching officers, directing traffic and, perhaps, manning speed traps. Finally, technological change, particularly if it takes place at different rates for law-enforcement and fire-fighting services, may preclude the establishment of a long-standing standard for determining the pay-scale relationships within the protective services.

Acknowledgements

This research project would not have been possible without funding by The Institute for Research on Public Policy and the Department of Industrial and Legal Relations, Faculty of Business, University of Alberta. I am indebted to those individuals whom I interviewed and those who provided data, as well as to the following people: Jan Muller, Laurie Whitecotton, Maxine Howarth, Susan Williams and Gordon Fika.

E. G. Fisher

Notes

1. J.A. Craft, "Fire-Fighter Militancy and Wage Disparity"; J. Adler, M. Bird and T. Robinson, *Pay Parity for Policy and Fire-Fighters*; D. Lewin, "Wage Parity and the Supply of Police and Firemen".
2. Published Canadian literature tends to make references in passing to the police/fire-fighters' parity issue. See, for instance, H.W. Arthurs, *Collective Bargaining by Public Employees in Canada: Five Models*, pp. 92–100; E.G. Fisher and H. Starek, "Police Bargaining in Canada: Private Sector Bargaining, Compulsory Arbitration, and Mediation-Arbitration in Vancouver", pp. 48–49; J.C. Anderson, "The Structure of Collective Bargaining", p. 176; and G.W. Adams, "The Ontario Experience with Interest Arbitration: Problems in Detecting Policy", pp. 146-48.
3. Similar developments occurred in Canada.

> In the mid-1960's. . .the economic expansion encouraged Policemen in most major cities to resign in larger than normal numbers. The resulting competition for suitable police recruits produced a series of overlapping regional markets across Canada. . .and brought considerable pressure to bear upon police departments to move towards matching the salaries paid for Policemen in the higher paying wage areas of Montreal, Toronto and Vancouver. (Greater Vancouver Regional District Labour Relations Department, "Brief Submitted to Industrial Inquiry Commission [In the Matter of an Arbitration Between Vancouver Police Board and Vancouver Policemen's Union]", Part VIII, hereafter cited as GVRDLRD, 1980.)

4. Craft, "Fire-Fighter Militancy and Wage Disparity", p. 795.
5. Adler *et al.*, *Pay Parity for Police and Fire-Fighters*, p. 18.
6. The full sample was reduced in some cases in Ontario where there was regional police bargaining but no corresponding regional bargaining by fire-fighters.
7. S. Frankel and R.C. Pratt, *Municipal Labour Relations in Canada*, pp. 51–53; W. Fogel and D. Lewin, "Wage Determination in the Public Sector", pp. 411–13.
8. See, for instance, L.G. Reynolds, *Labor Economics and Labor Relations*, pp. 110, 119–22, 130.
9. Where there is relatively inelastic demand, the wage rate can be increased with very little decrease in employment.
10. Ambulance drivers who are employed by municipalities have been yoked with fire-fighters, owing to similar job contents, such as rescue work and first-aid treatment. The typical 'gold standard' between fire-fighters and ambulance drivers is that the latter earn 95 per cent of the salary of the former. This is currently the case in Calgary, for example.

11. In Los Angeles County and the City of Los Angeles, the parity policy dated back to 1926. By 1969, "more than two-thirds of all cities in the United States adhered to policies of wage parity." (D. Lewin, "Wage Parity and the Supply of Police and Firemen", p. 77.) Adler *et al.* (*Pay Parity for Police and Fire-Fighters*) found that approximately 56 per cent of their New York State sample had parity (p. 4) and that parity was more prevalent in larger cities (p. 11).
12. See, for instance, J. Jessop, "Selected Excerpts from Fire-Fighter Interest Arbitration Awards"; H.L. Keenleyside, "The Fire-Fighting Services in British Columbia".
13. Police in some municipalities are forbidden to moonlight in order to avoid possible conflicts of interest, but their counterparts in other cities and towns may provide off-duty security, for example, at sporting events.
14. K.P. Swan, "Apples and Oranges: Comparability as a Criterion of Interest Arbitration", p. 269.
15. *Ibid.*, p. 278.
16. *Ibid.*, pp. 280 – 1; see also the chapter in this volume by K.P. Swan.
17. A point-evaluation report was apparently first tendered as evidence during a 1979 police arbitration covering the Hamilton-Wentworth region. This same report was submitted to an arbitrator in British Columbia during 1981. See Greater Vancouver Regional District Labour Relations Department, "Brief Submitted to Industrial Inquiry Commission (In the Matter of Binding Decision Between . . . International Association of Fire-Fighters)", Appendix E. Hereafter cited as GVRDLRD, 1981.)
18. "Many studies have been conducted in the United States which compare some aspects of the Fire-Fighter and Constable position. However, very little research has been performed in Canada which develops and defines the basis of comparison." (Stevenson and Kellogg, "A Matter of Relative Job Worth", p. 1.)
19. Possible subfactors were listed for each of the major factor groupings. For "knowledge, abilities and skills"; they included experience, complexity judgements, education, initiative, manual skill, ingenuity, and variety of assignments. The possible subfactors under "responsibilities" were equipment/process, safety of others, contacts, accuracy, result of errors, and supervision of others. Physical, mental and visual aspects were listed as subfactors under "effort", while the factors listed under "work environment" were conditions, hazards and degree of injury.
20. Stevenson and Kellogg, "A Matter of Relative Job Worth", p. 20.
21. *Ibid.* The corroborative study was conducted by P.S. Ross and partners and was reproduced in at least one arbitration brief (GVRDLRD 1981, Appendix E). One arbitrator considered that ". . .the second job

evaluation, as testified to in the accompanying letter, was cursory, to say the least." (C. McKee, *Report of Industrial Inquiry Commission*, p. 12.)

22. Stevenson and Kellogg, "A Matter of Relative Job Worth", p. 22.
23. *Ibid.*, p. 24.
24. *Ibid.*, p. 26.
25. *Ibid.*, p. 27.
26. H.G. Ladner, *Report of Industrial Inquiry Commission*, pp. 9–11; McKee, *Report of Industrial Inquiry Commission*, pp. 12–15.
27. McKee, *Report of Industrial Inquiry Commission*, p. 16. The results of the joint job-evaluation study, if completed, were not available to me at the time of writing.
28. Taking all these matters — and the countervailing arguments advanced by some representatives of police forces — into consideration, and realizing that there are imponderables which vary from place to place, from time to time, and from individual to individual, it is difficult . . . to avoid the conclusion that in British Columbia at this time justice would be more likely to be done if policy and fire-fighting salaries, including perquisites, were to be roughly equal.

    Under present circumstances, the wages and salaries parcel [is], of course, [a matter] for municipal decision, and must be left to local bargaining. In light of the considerations outlined above it is recommended that the local authorities accept in theory and apply in practice the principle that fire-fighters and police should be entitled to equal remuneration. (Keenleyside, *Report of Industrial Inquiry Commission*, pp. 66–67.)
29. Ladner, *Report of Industrial Inquiry Commission*, p. 10, as quoted in McKee, *Report of Industrial Inquiry Commission*, p. 14, and "wholeheartedly" agreed to at p. 15.
30. Cooling-off periods are provided for police in British Columbia (forty days) and Nova Scotia (thirty days). Public protection guarantees are in place in statutes in British Columbia and New Brunswick, while adjudication in British Columbia can only be invoked at the option of a police association. (R. Jackson, "Policy Labour Relations in Canada: A Current Perspective", pp. 12–13.)
31. The British Columbia Labour Code provides for a so-called choice of procedures (COP) at any time during negotiations by the union. The options confronting a trade union in the essential services are either to engage in a legal strike with a skeletal staff remaining on duty or to unilaterally invoke arbitration. (A. Ponak and H.N. Wheeler, "Choice of Procedures in Canada and the United States", pp. 294–95.) A COP of this sort usually promotes arbitration settlements and few, if any, strikes. This precise effect was observed in B.C. (*Ibid.*, p. 308.) Moreover, Ministers of Labour for B.C. have usually been able to persuade protective services unions to opt for arbitration. See, for example, McKee, *Report of Industrial Inquiry Commission*, pp. 1–6.

32. Also note that an apparently illegal recognition strike involved the Newfoundland Constabulary in 1972. See D. Forcese, "Police Unionism: Employee-Management Relations in Canadian Police Forces", pp. 90–94, 102.

33. The lower proclivity for fire-fighters, as opposed to policemen, to strike seems contrary to Craft's hypothesis concerning wage disparity and fire-fighter militancy ("Fire-Fighter Militancy and Wage Disparity", pp. 794–95). Using data provided by Labour Canada, it was found that during the period from 1974 to 1979, twice as many police strikes (12) as fire-fighter strikes (6) took place. Four of the six work stoppages involving firemen took place in cities (Halifax, greater Vancouver, and Montreal), and the other two took place in Dartmouth, Nova Scotia. Police strikes were concentrated in Eastern Canada, with four lawful ones occurring in Nova Scotia (in the towns of Westville, Amherst, Truro and New Glasgow), three in New Brunswick (in Bathurst in 1977, 1978 and 1979) and four in Quebec (in the cities of Trois Rivières and Laval, the town of Sherbrooke and the Ville de St. Lambert). Police in Regina, Saskatchewan, engaged in a seventeen-hour strike during 1976, as noted above. (See also Forcese, "Police Unionism", pp. 90–91, and 102.) Four work stoppages by police and at least three by fire-fighters were unlawful, since they took place during the term of the agreement or in contravention of no-strike provisions in the relevant statutory framework.

34. See, for instance, Fisher and Starek, "Police Bargaining in Canada", p. 44, and Forcese, "Police Unionism", pp. 90–96, 102–3.

35. See, for instance, Adams, "The Ontario Experience with Interest Arbitration", pp. 147–48, and Anderson, "The Structure of Collective Bargaining", p. 176.

36. See G. Ferguson, "Interest Arbitration-Economic Issues", pp. 64, 66.

37. Five municipalities each reported that their police compare themselves with the municipality's fire-fighters. By contrast, forty-eight municipalities reported that their fire-fighters looked to the municipality's police for comparison.

38. Twenty-two police forces settle early in their provinces, but only five settle early in the nation. The corresponding figures for fire-fighters were twenty-seven and four.

39. In Ontario, 69.7 per cent of fire-fighter's interest disputes were submitted to arbitration at least once, as opposed to 41.3 per cent of police disputes. Moreover, 29.2 per cent of fire-fighters' disputes involved at least two arbitrations, as compared with only 23.1 per cent of police disputes. Ontario is clearly one province where the International Association of Fire Fighters has launched a highly concerted effort to achieve parity by means of interest arbitration (and has done so with a modicum of success).

40. Adams, "The Ontario Experience with Interest Arbitration", p. 147.

41. *Ibid.*, p. 148. Arbitration seems to have displaced market rates in British Columbia as well. One B.C. arbitrator stated this as follows:

> It was argued by the Union that I ought to attempt to simulate the agreement which could have been reached by the parties under the sanction of a strike or lock out. However, that poses great difficulties where there are no freely negotiated settlements involving similar bargaining units within some geographical proximity. (Ladner, *Report of Industrial Inquiry Commission*, pp. 13–14).

By contrast, an arbitrator in B.C., whose case followed the one in Vancouver, felt obliged to follow a fire-fighters' settlement that was "freely negotiated" in the interim for a suburb of Vancouver; this surburb was a member of the Greater Vancouver Regional District, and the arbitrator was to determine the remainder of its firemen's salaries. (McKee, *Report of Industrial Inquiry Commission*, p. 20.)

42. Unfortunately, the questionnaire did not distinguish between comparison avoidance at the bargaining table and comparison avoidance during interest arbitration.

It was reported in 1982 that twenty-four municipal employers across Canada made attempts to avoid police/fire-fighter comparisons, while forty-seven did not. The municipalities' success in resisting these comparisons were as follows: six were 'greatly successful', thirteen were 'somewhat successful', sixteen were 'not very successful', fourteen were 'not at all successful', and twenty-two were 'not reported'.

43. As explained above, fire-fighters typically spend more time on the job per week than do policemen. If pay parity prevailed, the policeman's hourly wage rate would obviously exceed that of the fire-fighter. Discrepancies also can occur if each group is entitled to the same number of annual holidays, but the length of one group's shift is, for example, eight hours, while the length of the other group's shift is twelve hours.

44. Four municipalities did not report the size of their fire departments, and twelve did not report the size of their police forces.

45. Stevenson and Kellogg, "A Matter of Relative Job Worth", p. 27.

46. See Lewin, "Wage Parity and the Supply of Police and Firemen", p. 77. The International Personnel Management Association determined that in the United States, as of 1 January 1979, the monthly police/fire-fighter pay ratios were as follows: in the eastern states, 101.1 per cent; in the southern states, 105.1 per cent; in the central states, 103.6 per cent; and in the western states, 105.7 per cent, with an overall average of 104.4 per cent. Monthly salary parity prevailed in forty-nine, or 25.1 per cent, of 195 municipalities surveyed. (GVRDLRD, 1981, Table 13.)

47. Of course, police and fire-fighters' salaries differ from region to region. A 1977 comparison of police salaries in major cities in each region resulted in the following ratios: Atlantic Canada/Ontario, 72 per cent; Quebec/Ontario, 104.5 per cent; the Prairies/Ontario, 95.1 per cent; and British Columbia/Ontario, 102 per cent. (See Jackson, "Police Labour Relations in Canada", p. 14).

    The other case was in British Columbia, but the percentage was not recorded.

48. The threat of converting to a volunteer fire department is presumably much more credible in smaller communities. Higher police/fire-fighter pay ratios also seem to obtain in larger American cities. (GVRDLRD, 1981, Table 3.)

49. The idiosyncracies arising from the timing of arbitration awards were mentioned in several interviews and questionnaire pre-tests.

50. See Craft, "Fire-Fighter Militancy and Wage Disparity", pp. 797–99.

51. Lewin, "Wage Parity and the Supply of Police and Firemen", also found that firemen faced better promotional opportunities than did policemen (pp. 82–83); this circumstance seems to pertain in Canada as well, as was conveyed to me in interviews. It should be noted that Adler, *et al.* (*Pay Parity for Police and Fire-Fighters*) found that few police or fire departments had recruitment or retention problems in New York State during the 1970s (pp. 11–12). Lewin's data covered the 1950s and 1960s.

52. Fogel and Lewin, "Wage Determination in the Public Sector", p. 427.

53. Cross-tabulations were obtained in thirty-four cases for quit rate proclivities against police/fire-fighter salary ratios. There were twenty-two cases with a higher incidence of police severances, ten with an approximately equal number of incidences for each profession, and two where fire-fighters severed the employment relationship more often than police. The latter two occurred at pay ratios of 98 and 99 per cent, rather than at much lower ones. More surprisingly, in four of the twenty-two cases of higher police quit rates, the pay ratios were 88, 86, 84 and 72 per cent. Approximately equal quit rates were observed in cases in which the ratios ranged from 89 to 99 per cent. These findings may suggest that immediate supervisory skills have a greater impact on quit rates than does salary.

    The percentage rate of voluntary resignations during the period from 1975 to 1980 was 2.33 per cent for Vancouver police, as compared with 0.42 per cent for Vancouver firemen. (GVRDLRD, 1981, Table 15.)

54. W.C. Hall and B. Vanderporten, "Unionization, Monopsony Power, and Police Salaries", used crime statistics to explain American police salaries in their multiple regression analysis (p. 95).

55. In addition, an attempt was made to match the salaries of the police and fire-fighters in thirty-eight Ontario municipalities with communi-

ty wage rates. Since only a handful of matchings could be obtained, a correlation analysis was not conducted.

56. Other researchers have used similar variables. See, for example, J.L. Freund, "Market and Union Influences on Municipal Employee Wages", and C.A. Olson, "The Impact of Arbitration on the Wages of Fire-Fighters".

57. The F-value for the regression was 4.76 and the corresponding critical value with (4, 12) degrees of freedom was 5.91.

58. The t-statistic value for CPI was 2.28, whereas the corresponding one-tailed table value for 16 degrees of freedom was 2.12.

59. The crime statistics were gathered commencing in the year 1962; they did not include the years 1971 and 1972. The source was *Crime Statistics*, Cat. No. 85-205, by the Dominion Bureau of Statistics.

60. The F-statistic for the regression was 6.74, as compared with 6.26 for the theoretical F-value with 5 and 4 degrees of freedom.

61. As Forcese ("Police Unionism") pointed out, the Montreal Urban Community Police in effect "set up their own 4-day shift schedules" when management refused to do so. Obviously, some municipal police associations have usurped or fettered traditional command prerogatives, such as scheduling.

62. Police in Quebec probably enjoy the best pension benefits in Canada (Forcese, "Police Unionism", p. 96). Pension and early retirement have been important bargaining points in Ottawa, as well as in the rest of Ontario, since the late 1970s (p. 98). An attractive pension plan has also existed in Edmonton (p. 107). There were concerns about pensions in British Columbia during the late 1970s (p. 111). Pension improvements may be traded off against salary improvements by police in the Maritimes, since their salaries, on average, were 28 per cent lower than those for police in Ontario (p. 89).

63. See Lewin, "Wage Parity and the Supply of Police and Firemen", pp. 82–83.

64. During the late 1970s, the Quebec Provincial Police (QPP) agreed to a formula which directly linked their salaries with those paid to several stipulated police forces. The agreement was to remain in effect for five years.

    During the mid-1970s, the RCMP, who are not unionized, and the Federal Treasury Board decided on a similar salary policy and a formula. The formula equates "RCMP salaries and benefits to a weighted average provided solely by the Ontario and Quebec Provincial Forces, and by the municipal police forces of Calgary, Edmonton, Montreal, Toronto, Vancouver and Winnipeg." (GVRDLRD, 1980, Part VIII.) One of the reasons for this was to stave off an organizing campaign launched among members of the RCMP during 1975. (Forcese, "Wage Parity and the Supply of Police and Firemen", pp. 114–17). Another reason was, presumably, to retain Mounties, as opposed to supplying municipal police forces with RCMP-trained recruits.

With the QPP relying on Toronto and other police forces on the RCMP's list, and with the RCMP relying on QPP to determine salaries, these 'invidious comparisons' have practically become insidious, as well as symbiotic and self-cannibalizing in the extreme. The GVRD Labour Relations Department views the salaries of members of the RCMP as having "now become the primary force maintaining the salary and total compensation proximity which each major Canadian police force is striving to achieve with the others." (GVRDLRD, 1980, Part VIII.)

65. The 1982 fire-fighters' settlement in Halifax did not provide immediate pay parity, but was to be phased in to reduce the gap between the salaries of police and fire-fighters.

66. GVRDLRD, 1980, Table 41.

67. Within the Lower Mainland, fire-fighter parity was slow to develop, as the following quotation indicates:

> As recently as 1960, there was no single suburban Firefighter Local which had achieved salary parity with its Vancouver counterpart. The Burnaby Firefighters achieved that distinction in 1961, and by 1976 all of the others had achieved parity both in terms of salaries and most other major working conditions. (GVRDLRD, 1981, p. 4).

The fire department of Saanich, located on Vancouver Island, was awarded a satellite agreement with Vancouver by means of an arbitration award, as set forth in the salary schedule of the 1981 Saanich fire-fighters' agreement. Police and fire-fighters' negotiations on Vancouver Island are usually conducted under the umbrella of the Greater Victoria Regional District and/or are linked directly with those in Vancouver through tie-in arrangements. Many of British Columbia's fire-fighting associations also negotiate with another municipal employers' association, the Okanagan Mainline Municipal Labour Relations Association. Thus, it was through centralized negotiations and/or tie-in arrangements that police salary uniformity, as well as the uniformity of fire-fighters' salaries, came into existence across much of British Columbia.

68. Municipalities in the Lower Mainland can opt into or out of negotiations conducted by the GVRD Labour Relations Department. Surrey had elected to conduct its fire negotiations independently of GVRDLRD during 1981. It agreed to pay parity with Vancouver firemen during 1981 and to fire-fighter pay superiority in relation to Lower Mainland municipal police forces, as well as to its RCMP detachment, during 1982, the second year of a two-year agreement.

Vancouver firemen had voted to strike during the negotiations in 1981, but later opted for arbitration. They had negotiated a two-year agreement in 1979-80, which provided for pay increases of 12.3 per cent in 1979 and 7.5 per cent in 1980. (GVRDLRD, 1981, Tables 11 and 4.) In 1979, an arbitration board had granted police a 10.2 per cent pay increase and a one-year agreement, to apply during that year. (H.G. Ladner, *Arbitration Award*, p. 12.) During 1980, Vancouver police threatened to strike, and subsequently received an arbitrated salary increase of 11.3 per cent. (GVRDLRD, 1981, Table 11.) Thus, by venturing alone in 1979 and thereby deviating from their customary practice of waiting for and tying into police settlements in Vancouver, the city's firemen were in the "unfortunate position of playing 'catch-up'." (Ladner, *Report of Industrial Inquiry Commission*, p. 12.) They were granted a 'catch-up' arbitration award by the 1979 city fire arbitrator, who increased fire-fighters' 1981 salaries by 19 per cent, as compared with a 14.2 per cent pay increase received by the city's police.

Unionized suburban Vancouver firemen, aside from those in Surrey (who, in the meantime, had settled), subsequently voted to strike and later invoked arbitration unilaterally. They received the 1981 Vancouver and Surrey fire-fighters' salary increase of 19 per cent. An arbitrator awarded them the 1982 fire-fighters' salary increase, granted both in Surrey and in one other smaller B.C. municipality, of 13 per cent for 1982, as compared with the 9 per cent granted previously to Vancouver's police force and favoured by their employers. The arbitrator stressed that ". . . nothing in this award is to be taken as to be in favour of either parity or 'disparity'." (McKee, *Report of Industrial Inquiry Commission* p. 30.) He also emphasized that the ". . . monetary award of 13% for the year 1982 is made solely on the basis of labour relations considerations and not statistical knowledge of what will happen to our economy in that year." (*Ibid.*, p. 31.)

69. The police COLA clause stipulated a trigger of 9 per cent, and the fire-fighter's COLA clause stipulated a 13 per cent trigger. The October 1982 increase in the Consumer Price Index was 8.8 per cent.

70. In the state of New York, a fire union proposed a collective agreement provision which guaranteed police/fire-fighter parity throughout the term of that agreement. The matter was brought before the New York State Public Employment Relations Board, which decided that the employer could refuse to bargain over this item. In the Board's view, requiring the employer to negotiate over such a clause would improperly inhibit negotiations between the particular municipality and its other civic unions, especially its Police Association. More specifically, the fire-fighters' demands involved terms and conditions of employment outside the relevant bargaining unit. The case was *Albany Permanent Professional Firefighters Association, Local 2007, AFL-CIO* v. *City of Albany*, PERB Decision and Order, Case No. U-1371, December 19, 1974. (Adler, *et al.*, *Pay Parity for Police and Fire-Fighters*, pp. 28–30.) No comparable labour-relations-board or court decisions appear to have been rendered in Canada.

71. With the new Canada Constitution Act and the growing complexity of the law, standards of legal training for police may be raised, particularly if crime increases dramatically. (Adler, *et al.*, *Pay Parity for Police and Fire-Fighters*, pp. 24–25.)

72. Not only would police jobs become more physically demanding and wages increase with more policemen on foot patrol, but accident rates and early retirements would also rise, while promotional opportunities would diminish as policing skills became somewhat less specialized. This approach to policing is referred to as 'team policing' in at least one Canadian city.

Bibliography

Adams, George W. "The Ontario Experience with Interest Arbitration: Problems in Detecting Policy" in *Interest Arbitration: Measuring Justice in Employment*, edited by Joseph M. Weiler, pp. 133–74. Toronto: Carswell, 1981.

Adler, Joseph; Bird, Marjorie; and Robinson, Tollien. *Pay Parity for Police and Fire Fighters.* Occasional Paper No. 7. Ithaca, N.Y.: Cornell University, Institute of Public Employment, 1975.

Anderson, John C. "The Structure of Collective Bargaining" in *Union-Management Relations in Canada*, edited by John C. Anderson and Morley Gunderson, pp. 173–95. Toronto: Addison-Wesley, 1981.

Arthurs, H.W. *Collective Bargaining by Public Employees in Canada: Five Models.* Ann Arbor: Institute of Labor and Industrial Relations, The University of Michigan–Wayne State University, 1971.

Craft, James A. "Fire Fighter Militancy and Wage Disparity". *Labor Law Journal* 21 (December 1970): 794–803.

Ferguson, Judge George. "Interest Arbitration-Economic Issues" in *Conflict and Cooperation in Police Labour Relations*, edited by Bryan M. Downie and Richard L. Jackson, pp. 63–73. Ottawa: Minister of Supply and Services Canada, 1980.

Fisher, E.G. (Jed) and Starek, Henry. "Police Bargaining in Canada: Private Sector Bargaining, Compulsory Arbitration, and Mediation-Arbitration in Vancouver" in *Conflict and Cooperation in Police Labour Relations*, edited by Bryan M. Downie and Richard L. Jackson, pp. 35–61. Ottawa: Minister of Supply and Services Canada, 1980.

Fogel, Walter and Lewin, David. "Wage Determination in the Public Sector". *Industrial and Labor Relations Review* 27 (No. 3 1974): 410–31.

Forcese, Dennis. "Police Unionism: Employee-Management Relations in Canadian Police Forces". *Canadian Police College Journal* 4 (No. 2 1980): 79–129.

Freund, James L. "Market and Union Influences on Municipal Employee Wages". *Industrial and Labor Relations Review* 27 (No. 3 1974): 391–404.

Frankel, Saul and Pratt, R.C. *Municipal Labour Relations in Canada.* Montreal: Canadian Federation of Mayors and Municipalities and McGill University Industrial Relations Centre, 1954.

Greater Vancouver Regional District Labour Relations Department. "Brief Submitted to Industrial Inquiry Commission". (In the Matter of Binding Decision Between the District of Burnaby, the District of Coquitlam, the Corporation of Delta, the City of New Westminster, the City of North Vancouver, the District of North Vancouver, the City of Port Coquitlam, the City of Port Moody, the Township of Richmond, the District of West Vancouver, and the City of White Rock and Locals 256, 323, 914, 1183, 1286, 1525, 1763, 1782, 1941, 2399 and 2407 of the International Association of Fire Fighters.) Vancouver (24 August 1981).

Greater Vancouver Regional District Labour Relations Department. "Brief Submitted to Industrial Inquiry Commission". (In the Matter of an Arbitration Between Vancouver Police Board and Vancouver Policemen's Union.) Vancouver (14 January 1980).

Hall, W. Clayton and Vanderporten, Bruce. "Unionization, Monopsony Power, and Police Salaries". *Industrial Relations* 16 (No. 1 1977): 94–100.

Jackson, R. "Police Labour Relations in Canada: A Current Perspective" in *Conflict and Cooperation in Police Labour Relations,* edited by Bryan M. Downie and Richard L. Jackson, pp. 7–33. Ottawa: Minister of Supply and Services Canada, 1980.

Jessop, Jack. "Selected Excerpts from Fire Fighter Interest Arbitration Awards". Ottawa: International Association of Fire Fighters, 1982.

Keenleyside, Hugh L. "The Fire Fighting Services in British Columbia". Victoria, 1975.

Ladner, Hugh G. *Arbitration Award.* (In the Matter of an Arbitration Between Vancouver Police Board and Vancouver Policemen's Union.) Vancouver (28 June 1979).

Ladner, Hugh G. *Report of Industrial Inquiry Commission.* (In the Matter of an Arbitration Between the City of Vancouver (represented by the Greater Vancouver Regional District Labour Relations Department) and Vancouver Fire Fighters Union, Local 18.) Vancouver (6 May 1981).

Lewin, David. "Public Employment Relations: Confronting the Issues." *Industrial Relations* 12 (No. 3 1973): 309–21.

Lewin, David. "Wage Parity and the Supply of Police and Firemen". *Industrial Relations* 12 (No. 1 1973): 77–85.

McKee, Clive. *Report of Industrial Inquiry Commission.* (In the Matter of an Arbitration District of Burnaby *et al.* (represented by Greater Vancouver Regional District Labour Relations Department) and Burnaby Fire-Fighters' Association, Local 323, *et al.* (represented by the Joint Council of Fire Fighters). West Vancouver (16 September 1981).

Olson, Craig A. "The Impact of Arbitration on the Wages of Firefighters" *Industrial Relations* 19 (No. 3 1980): 325–39.

Ponak, Allen and Wheeler, Hoyt N. "Choice of Procedures in Canada and the United States". *Industrial Relations* 19 (No. 3 1980): 292–308.

Reynolds, Lloyd G. *Labor Economics and Labor Relations.* 7th ed. Toronto: Prentice-Hall of Canada, 1978.

Stevenson and Kellogg, Management Consultants. "A Matter of Relative Job Worth". Project Report Prepared for City of Hamilton. Toronto, January 1979.

Swan, Kenneth P. "Apples and Oranges: Comparability as a Criterion of Interest Arbitration" in *Interest Arbitration: Measuring Justice in Employment*, edited by Joseph M. Weiler, pp. 267–83. Toronto: Carswell, 1981.

3: Growth Patterns of Public Sector Unions

JOSEPH B. ROSE

JOSEPH B. ROSE is Associate Professor, Faculty of Business at McMaster University.

Contents

Introduction 87
Data Sources and Methodology 88
Determinants of Union Growth 89
  Aggregate Union Growth Models 89
  The Public Sector 91
A Profile of Public Sector Unions 92
  Union Size 92
  Geographic Distribution 94
  Female Membership 95
Overview of Public Sector Union Growth 95
Patterns of Union Growth 97
  Federal Government 97
  Provincial Goverments 100
  Municipal Governments 103
Health Care and Education 105
Summary and Comments 108
Notes 112
Bibliography 116

Growth Patterns of Public Sector Unions

Introduction

Between 1966 and 1981, trade-union membership in Canada doubled, reaching 3 487 231 union members (or 37.4 per cent of non-agricultural paid workers).[1] During this period, there was a significant structural realignment of the labour movement as the influence of international unions ebbed and the influence of national unions expanded. This change is largely attributable to the emergence of public sector unions and the expansion of collective bargaining to all levels and components of the public sector.[2]

The purpose of this chapter is to examine several aspects of public sector union growth since 1911. Specifically, the chapter will provide an overview of union growth, highlight certain characteristics of public sector unions — for example, size and female membership — and compare union growth among five components of the public sector, namely, health care, education and the three levels of government. Finally, the implications of these growth patterns will be discussed. Because of data limitations and the exploratory nature of the study, the emphasis in this chapter will be on divergent patterns of union growth within the public sector, rather than the developing and testing of a unified model of the growth process. Before we turn to the analysis, we shall set out data sources and methodology, and briefly review the union-growth literature.

Data Sources and Methodology

Ponak defined the public sector as including:

- The federal civil service
- Provincial civil services
- Municipal employment
- Health care
- Education
- Government enterprises, such as Air Canada and Hydro-Québec.[3]

This definition not only cuts across several industrial classifications, but includes employees who bargain under private sector, as well as public sector, labour-relations legislation.[4] Unfortunately, union-membership data are not organized along the lines of this definition. In an effort to develop a comprehensive estimate of public sector unionism, we focused our attention on individual labour organizations, rather than the employing agency. Accordingly, unions which operate exclusively (or almost exclusively) within the public sector are included in the study. As a result, public sector unionism does not include government enterprises which are organized by private sector unions, such as Air Canada and the Canadian Airline Pilots Association.

Union membership data were collected from two sources: the *Directory of Labour Organizations in Canada*, published by Labour Canada, and the *Annual Report of Labour Union Activities Under the Corporations and Labour Unions Returns Act* (CALURA), published by Statistics Canada. Although there are discrepancies between the two sources in the overall membership statistics, and although each is subject to certain limitations, they provide the best available information on union membership. A major limitation is that the principal criterion for inclusion in the Department of Labour directory is affiliation with a central labour federation. Consequently, some employee organizations which do not bargain collectively are included.[5]

A time series of public sector unionism was developed from individual union-membership figures found in the various issues of the *Directory of Labour Organizations in Canada*, from 1911 to 1981. There are, however, several gaps in the series.[6] Individual unions were also classified according to the component of the public sector in which they operate. For most unions this was relatively simple, since membership is confined to a single subsector, such as teachers (who constitute a subsector of the education profession). However, some unions are represented in several components of the public sector. Unfortunately, longitudinal membership data by union and subsector are not available. Therefore, the classification scheme denotes only the predominant characteristic of a union's membership; for example, the Canadian Union of Public Employees (CUPE) was classified as a municipal union. Classifying CUPE in this manner produces an overestimate of municipal unionism and understates membership — in particular, that of non-professional employees — in the fields of health care and education. Consequently, union growth in health care and education primarily reflects membership in nurses' and teachers' unions. Because of this limitation, the figures for union membership in these components of the public sector should be regarded as broad estimates.

The data provided by CALURA cover the period from 1962 to 1979 and provide a detailed breakdown of union membership by province, metropolitan area and sex. This information was used to supplement the data from Statistics Canada and provided a broader profile of public sector union membership. In addition, information was gathered through a questionnaire and through interviews. In the United States, "the most common type of union in the public sector, the mixed union, draws the majority of its members from private industry."[7] A short questionnaire was mailed to fifty-nine private sector unions to determine whether they represented workers within the public sector.[8] Of the forty-nine unions that responded, twenty-three had a public sector constituency. Interviews were conducted with representatives from Canada's largest public sector unions, including CUPE, the National Union of Provincial Government Employees (NUPGE) and the Public Service Alliance of Canada (PSAC). The purpose of these interviews was to determine what factors influenced union growth and to compare membership expansion among components of the public sector.

Determinants of Union Growth

Aggregate Union-Growth Models

Recently, Fiorito and Greer examined the historical/saturationist explanations of union growth and reviewed the extensive literature on the determinants of unionism in the United States.[9] Briefly, the historical school emphasizes the importance of unique factors to union growth, such as war and social upheaval, whereas the saturationists stress structural factors, such as changes in labour-force characteristics. Some areas of consensus were found in the literature:

> In general, the results show some consistent patterns. Among the time-series analyses, it appears that increases in prices, wages, and employment, prior downturns, and a favorable political climate enhance union growth, while increases in unemployment rates and saturation effects tend to inhibit growth. In the cross-sectional analyses, nonwhite and male worker characteristics, income, urbanization, concentration ratios, and various dissatisfaction measures are positively associated with unionism, while education, southern region, and "right-to-work" laws are negatively related.[10]

Fiorito and Greer also noted that disagreement continues over the influence of some independent variables, and that further research is needed to enhance our understanding of the dynamics of union growth. Moreover, the suitability of aggregate union-growth models to the experience of the public sector is still questionable.

Similar problems exist with Canadian data. Three recent studies employing regression analysis examined the effect of economic, institutional and public policy variables on the percentage change in union membership. Swidinsky examined the period from 1911 to 1970, and found that union growth was explained by economic fluctuations, strike activity and union growth in the United States.[11] Although no statistically significant results were found for the subperiod of 1911 to 1939, union growth which followed the Second World War was explained by "employment growth in the unionized sector, the rate of unemployment and the prevailing degree of unionization."[12]

Bain and Elsheikh constructed a simplified model of union growth which employed three independent variables: the current rate of change of American union membership; the current rate of change of prices; and the unemployment rate.[13] The study found there was a positive and significant relationship between union growth and American union membership and price levels, and a negative and significant relationship with the unemployment rate. Although this model was an important contribution to the explanation of aggregate union growth in Canada, it proved inadequate when applied to a component of the labour movement, namely, national unions.[14] Consequently, Chaison and Rose developed and tested an expanded model of national union growth, but once again, the regression results were not statistically significant. The authors concluded that future studies of national union growth must examine component union types, particularly public sector unions, and that they must develop "new and more relevant forms of economic and institutional variables."[15]

The Public Sector

Empirical research on the determinants of public sector union growth is sparse.[16] Burton argues that the determinants of union growth in the private sector do not adequately explain public sector developments,[17] and he discounts the importance of catastrophes (for example, war and depressions), the business cycle, and structural changes in the labour force. Alternatively, he suggests that union growth at the federal, state and local levels is the result of the following factors. First, public policy is a complex variable, the impact of which varies across sectors. Its most direct impact appears to have been on higher education. The impact of Executive Order 10988 on federal government employees is uncertain because "in some instances the enactment of favorable legislation was as much a result of membership growth as a cause of it."[18] Secondly, numerous non-bargaining organizations representing state and local non-educational employees were transformed into unions. In the early 1960s, independent public-employee associations relied on informal recognition and lobbying to achieve their goals, rather than on collective bargaining. Subsequently, the convergence of unions and associations gained impetus as employees' attitudes towards collective bargaining and strikes mirrored those of unions. In some cases, former associations were reorganized into unions for the purpose of collective bargaining; others were defeated in elections or merged with other unions.

Many of the same variables have been identified as determinants of public sector union growth in Canada. Ponak suggests that the shift from "association-consultation" to "union-collective bargaining" was as much a function of public policy changes as of disillusionment with the consultation process (that is, with such factors as its narrow scope and advisory nature). Dissatisfaction led to changes in organization and in leadership as staff associations began to model themselves after unions. Public sector employees were also influenced by the bargaining gains that private sector unions secured, as well as by the general climate of social change during the 1960s. Finally, the process was completed by the removal, in the 1960s and 1970s, of legal obstacles to collective bargaining.[19]

Union penetration in the Canadian public sector is considerably greater than it is in the United States, a difference which has been attributed to the existence of a more supportive public policy in Canada.[20] While there is little disagreement over the importance of public policy in general, its significance may vary among components of the public sector. An examination of disaggregated patterns of union growth should provide a better understanding of the importance of public policy and other variables to the growth process.

The remainder of this chapter will focus on the dynamics of union growth. For example, are the determinants of union growth the same throughout the public sector, or are there distinct models for each component? Did some unions or components experience more rapid rates of growth than others? Finally, what are the implications of the process and the speed of union penetration in the public sector?

A Profile of Public Sector Unions

Several characteristics of public sector unionism will be described in this section. These include union size, geographic distribution, and female membership.

Union Size

Prior to the Second World War, public sector unions were relatively small, having an average size of less than 4000 members. Between 1951 and 1971, the average size of public sector unions increased five times, reaching a total of 21 179 members. (See Table 3-1.) The emergence of larger unions accounted for most of the increase. In 1951 there were no unions with 10 000 members; by 1971, however, nearly half of the unions had memberships of this size. Average union size rose throughout most of the 1970s before falling below 19 000 members in 1981. The decline resulted from an influx of small occupational unions in health care after 1977. Nevertheless, the average size of public sector unions continued to exceed the overall average for national and international unions.

Union mergers have had a substantial impact on average union size and union concentration.[21] The three largest public sector unions, CUPE, NUPGE and PSAC, were the result of mergers. Today they rank among the ten largest unions in Canada and include the two largest: CUPE has 267 407 members and NUPGE

Table 3-1: *Membership Size of Public Sector Unions and Total National and International Unions*

Year	*Number of Unions*	*Percentage in Each Size Category*					*Average Size*
		Under 2 500	*2 500–4 999*	*5 000–9 999*	*10 000–29 999*	*30 000 and over*	
1951							
Public Sector Unions	14	35.7	35.7	28.6	0	0	3 875
Total National and International Unions	163	49.1	19.6	14.7	13.5	3.1	5 716
1961							
Public Sector Unions	15	13.3	20.0	20.0	33.3	13.3	12 192
Total National and International Unions	158	39.9	13.3	20.2	19.6	7.0	8 631
1971							
Public Sector Unions	27	18.5	14.8	18.5	29.6	18.5	21 179
Total National and International Unions	164	36.0	13.4	15.2	23.2	12.2	13 063
1981							
Public Sector Unions	71	33.8	16.9	16.9	19.7	12.7	18 972
Total National and International Unions	216	37.0	14.3	17.6	18.1	13.0	15 605

Source: Department of Labour, *Directory of Labour Organizations in Canada, 1951–1981.*

has 210 000 members. The combined membership of the three unions is 632 000, or nearly half of the estimated total membership in public sector unions in Canada.

Geographic Distribution

A comparison of the geographic distribution of public sector and total union membership is presented in Table 3-2. Public sector unionism is centred in urban areas, and three-quarters of the union members are located in Quebec, Ontario and British Columbia. The distribution of union membership among provinces and between metropolitan and non-metropolitan areas is remarkably similar for both sets of data.

Table 3-2: *Geographic Distribution of Public Sector and Total Union Membership, 1979*

Province	*Proportion of Public Sector Union Membership (%)*	*Proportion of Total Union Membership (%)*
Newfoundland	2.1	2.4
Prince Edward Island	0.5	0.3
Nova Scotia	2.8	2.8
New Brunswick	2.8	2.4
Quebec	32.8	28.0
Ontario	30.0	36.8
Manitoba	4.4	3.9
Saskatchewan	3.7	3.0
Alberta	7.9	6.4
British Columbia	12.6	13.8
Other	0.4	0.2
Total	100.0	100.0
Canada-Wide		
Metropolitan Area	66.1	70.5
Non-metropolitan Area	33.9	29.5

Source: Statistics Canada, *Annual Report of Labour Union Activities Under the Corporations and Labour Unions Returns Act, 1979.*

Female Membership

The proportion of women in public sector unions increased sharply, from 29.4 per cent to 49.3 per cent, between 1962 and 1979. While the proportion of women in other types of unions also increased, the largest gains were in the public sector. As illustrated in Table 3-3, the percentage of women in public sector unions is considerably higher than it is in international and national unions, and it is about 20 per cent higher than the total for all unions. To a considerable extent, these data reflect labour-market trends.[22]

Table 3-3: *Female Membership as a Percentage of Total Union Membership*

	1962	*1979*
Public Sector Unions	29.4%	49.4%
International Unions	12.1%	18.2%
National Unions	25.8%	42.4%
All Unions	16.4%	29.3%

Source: Statistics Canada, *Annual Report of Labour Union Activities Under the Corporations and Labour Unions Returns Act 1962 and 1979.*

Overview of Public Sector Union Growth

Employee organization in the public sector can be traced back at least as far as 1889, when the Railway Mail Clerks' Association was established.[23] Prior to the Second World War, there were relatively few public sector unions, and annual membership never exceeded 15 000, or 5 per cent of the labour movement. (See Table 3-4.) Following the Second World War, public sector unions rose to prominence as membership increased from approximately 40 000 in 1946 to 1 347 000 in 1981. In 1961 public sector unions accounted for 12.6 per cent of total union membership. This figure doubled by 1971 and increased to 38.6 per cent in 1981. Public sector unionism is believed to be near its saturation point, although there are no precise data on union penetration. This impression is based on survey data which indicate that over 90 per cent of the employees in public administration are covered by collective agreements.[24] Admittedly, there may be few differences between dues-paying membership and contract coverage for some public sector employees; these include, for example, federal public servants and

Table 3-4: *Public Sector and Total Union Membership, 1911 to 1981*

Year	*Public Sector Union Membership*	*Total Union Membership*	*Public Sector Membership as a Percentage of Total Membership*
1911	1 187	133 000	0.9
1921	7 370	313 000	2.4
1931	14 304	311 000	4.6
1941	13 523	462 000	2.9
1951	54 244	1 029 000	5.3
1961	182 887	1 447 000	12.6
1971	571 834	2 231 000	25.6
1981	1 347 073	3 487 000	38.6

Source: Department of Labour, *Directory of Labour Organizations in Canada, 1911–1981.*

professionals such as nurses and teachers. Whether these results can be generalized to the entire public sector is uncertain.

Union growth was especially strong between 1969 and 1973, when membership increased from approximately 430 000 to 883 000, and the number of public sector unions increased from eighteen to forty-nine. The increase corresponds to the introduction of collective bargaining legislation in the public sector, a factor which will be discussed in greater detail below. Although union growth continued throughout the 1970s, the rate of growth decreased after 1978. Nevertheless, there has been a sharp increase in the number of public sector unions (and a net increase of twenty-three unions since 1977).

These membership figures represent a conservative estimate of public sector unionism. They do not include membership in local independent unions, directly chartered unions, and so-called 'mixed unions', such as the International Brotherhood of Electrical Workers and the Service Employees International Union.[25] In the absence of more precise public sector data,[26] a questionnaire was sent to fifty-nine private sector unions to determine their membership in the public sector. Twenty-three of these unions had a combined public sector membership of 163 686, and three-quarters of the union members were employed by public utilities or in the health-care profession. If these results are added to the 1981 membership figures presented in Table 3-4, a revised membership estimate of 1 510 723, or 43.3 per cent of total union membership, is obtained.

Patterns of Union Growth

The rapid expansion of public sector unionism over the past twenty years has led to a redistribution of union membership within the public sector. In this section, the patterns of growth at various levels of government and the health-care and education professions will be reviewed in greater detail. Figure 3-1 traces the growth of union membership in each subsector between 1946 and 1981. In addition, the factors which have influenced the growth process will be examined.

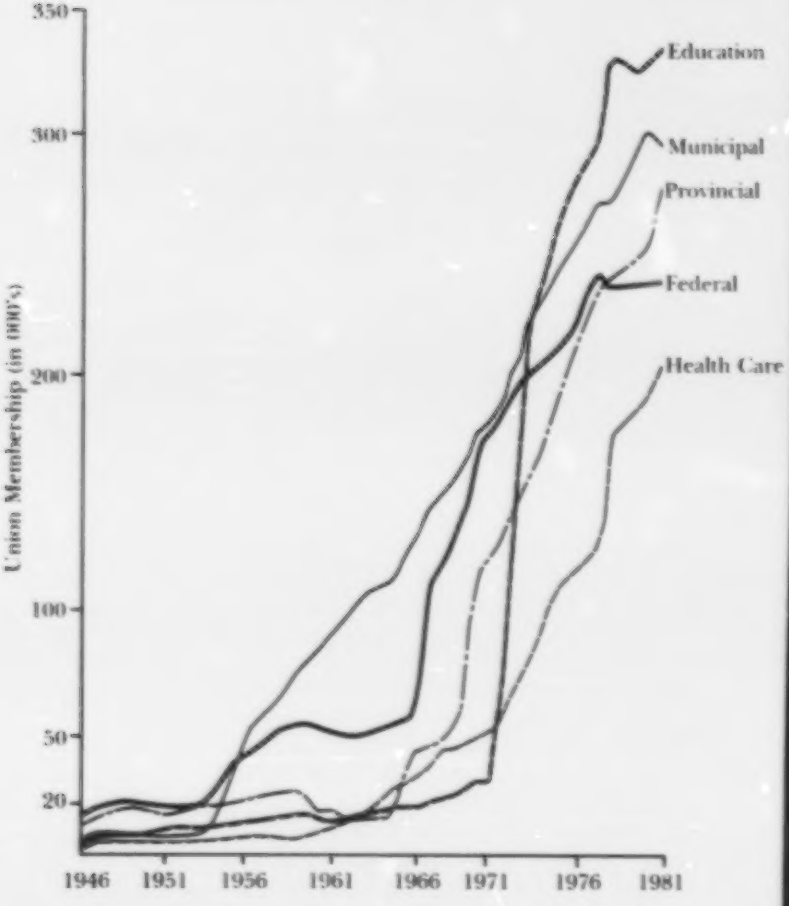
Federal Government

The organization of federal employees began nearly a century ago, in an effort "to enhance the well-being of the service as well as that of its employees. . . ."[27] From these roots, federal unions grew slowly, but steadily, through the mid-1960s. Membership doubled in 1967 and recorded a 200 per cent increase between 1966 and 1970, rising from 57 000 to 173 000 members. From 1970 to 1981, union growth moderated to an average of less than 4 per cent per year and levelled off after 1977.

The increase in union membership between 1967 and 1970 was not simply the result of certifications following the passage of the Public Service Staff Relations Act (PSSRA). While it is true that virtually the entire federal public service was certified within these three years,[28] only about one-half of the *net* increase in membership was due to certifications. The remainder was the result of union affiliations with a labour federation. As noted above, uncertified employee organizations which affiliated with the labour movement — for example, the postal unions — were counted as unions by Labour Canada. The formation of PSAC and its affiliation with the Canadian Labour Congress (CLC) accounted for the entire increase in federal union membership to 59 000 in 1967.[29] Thus, *net* union growth can be explained by certification (by unaffiliated employee organizations, as well as new organizing by existing unions) and union affiliation prior to the passage of the PSSRA.

Regardless of whether unions grew through affiliation or certification, membership in employee organizations had increased significantly prior to the passage of the PSSRA. These organizations benefited from employment growth during the 1950s and from employer encouragement of association-consultation. In particular, the formation of the National Joint Council in 1944 and "the federal government's agreement in 1953 to the voluntary, revocable check-off of dues strengthened the various employee organizations."[30] For

Figure 3-1: *Public Sector Union Membership, 1946 to 1981*



example, the combined membership in the Civil Service Federation of Canada and the Civil Service Association of Canada reached 90 000 by the mid-1950s. Similarly, smaller organizations, like the Professional Institute of the Public Service of Canada (PIPS), reported steady membership growth which corresponded to increases in employment.[31]

Employee antipathy to unions and government resistance to collective bargaining changed during the 1960s. Once public employees and the federal government were committed to collective bargaining, unionization was virtually completed in three years.

> The degree of existing organization eliminated the need for extensive membership campaigns which are the characteristically difficult first step when a new group seeks certification. The (former) staff associations provided a well-established base from which collective bargaining rights could be pursued, explaining the speed with which collective bargaining spread.[32]

While new organizing and certifications continued after 1970, union growth did not keep pace with employment growth in the federal government.[33] Indeed, many of the bargaining units were relatively small, and a number of certifications resulted from breakaways and raids. A number of the PIPS bargaining units were lost to PSAC, the Canadian Union of Professional and Technical Employees, and the Economists', Sociologists' and Statisticians' Association.

A supportive public policy facilitated the association-union convergence and made certification less contentious than it was in the private sector. Bargaining units defined by statute minimized the likelihood of management opposition to unionization. It is noteworthy that units composed of federal white-collar and professional employees rapidly became certified after the PSSRA was enacted.[34] In contrast, private sector firms staunchly opposed unionization by their white-collar employees.[35] This partially accounts for the fact that only 38 per cent of the office workers in Canada are covered by collective agreements.[36] This, in turn, implies that very few private sector office workers are represented by a bargaining agent.

Some insight into new organizing activity can be gained from a closer look at PSAC. Because PSAC was organized along departmental lines and the PSSRA established occupational bargaining units, extensive membership drives were required among some employee groups, such as the clerical workers. Conversely, air-traffic controllers left PSAC to form their own union. In the early

1970s, PSAC's membership spread beyond the federal public service, and today it represents 12 000 workers under the Canada Labour Code and various provincial statutes.[37] Membership growth has not been impeded by the mandatory Rand Formula. It is estimated that 88 per cent of the 176 000 employees covered by collective agreements are dues-paying members.[38]

Provincial Governments

Union growth was relatively modest at the provincial level until the 1960s, even though public service associations in western Canada began affiliating with the labour movement as early as 1927. While most staff associations were organized as social and recreational clubs, they eventually became pressure groups which sought improvements in the general welfare and working conditions of their members.[39] Aided by significant increases in employment and, in some cases, by voluntary dues checkoff, employee organization flourished after the Second World War. By 1966 membership in non-bargaining associations had swelled to over 90 000.[40] Thereafter, association-union convergence and the passage of public service bargaining legislation led to further gains. Bargaining rights were acquired either through certification or, as was the case in six provinces, by statutory recognition of the staff associations with which governments already had informal consultative relationships.[41] Union membership increased steadily after 1964, and doubled between 1969 and 1970, increasing from 58 000 to 119 000 members; it doubled again between 1971 and 1978, rising from 127 000 to 241 000 members. In contrast to the federal pattern, large gains in provincial membership came later and were sustained well into the 1970s. Indeed, by 1978, provincial union membership was greater than membership at the federal level.

As might be expected, there is diversity in union-growth patterns at the provincial level. Between 1945 and 1969, union growth was centred in western Canada and Quebec. The extension of collective bargaining rights to provincial employees in Saskatchewan (in 1944) and Quebec (in 1965) had a significant impact. In Saskatchewan, the staff association reported 2500 members in 1944. By 1948 it had added another 1000 members, and membership increased gradually over the next two decades, reaching 8400 in 1969. Most provincial union growth during the 1960s took place in Quebec, where the Quebec Government Employees' Union was statutorily designated as the bargaining agent for clerical and blue-collar employees. Between 1965 and 1969, the Union's membership reached 30 000 and accounted for two-thirds of the increase in total provincial union membership. The remainder was spread among other provincial staff associations, including the newly certified New Brunswick Public Employees' Association (NBPEA).

By 1970 all provincial staff associations (except those of Prince Edward Island and Newfoundland) were counted as labour organizations. The addition of the associations from Ontario, Manitoba and Nova Scotia accounted for three-quarters of the membership growth in that year. (The overall increase was 60 000 members.) Although most provincial employee associations were treated as unions by 1970, this was not because of either affiliation or certification. Rather, it was because of association-union convergence, in the sense that Labour Canada perceived a change in the function of the provincial employee associations, which reflected traditional trade-union objectives.

The rapid spread of supportive public policies among provinces led to sharp increases in union membership. Table 3-5 shows membership data for individual staff associations during the period from 1970 to 1975, and for NUPGE from 1977 to 1981. The most significant gains occurred between 1973 and 1975, particularly in British Columbia, Alberta, Saskatchewan, Ontario and Newfoundland. However, strong growth was by no means universal, as appeared from data for Quebec and the Maritime provinces. The situation in New Brunswick is particularly interesting, as union rivalry between CUPE and the NBPEA led to a sharp reduction in the membership of the latter organization. After 1977 the largest membership increases were in Quebec and in NUPGE. While three-quarters of the NUPGE increase came after three provincial associations joined, there was also a sharp jump in membership for one of its constituent members, the British Columbia Government Employees' Union (BCGEU).[62]

Provincial union growth in the 1970s was aided by employment growth and by the relatively few restrictions on union-security provisions, as compared with those found at the federal level. There is also evidence of new organizing outside the provincial public service. For example, the BCGEU organized a private hospital, some community colleges, and clerical staff at a pulp mill. The union also created a separate component for locals certified under the British Columbia Labour Code. This component has expanded with the establishment of Crown corporations and the removal of employees from the public service bargaining unit. Indeed, the surge in BCGEU membership in the latter part of the 1970s was the result of

Table 3-5: *Membership in Provincial Staff Associations, 1970 to 1975*

Provincial Union	*Membership*		*Percentage Increase*	*Comment*
	1970	*1975*		
British Columbia	13 002	27 622	112	Increase of 56% (1973–75).
Alberta	16 296	26 396	62	Increase of 23% (1971-72) and 18% (1973–75).
Saskatchewan	8 200	14 158	73	Increase of 58% (1973–75).
Manitoba	7 041	11 666	66	Steady growth; largest increase in 1970-71 (22%).
Ontario	30 000	55 448	85	Large increase in 1970-71 (26%) and 1973–75 (30%).
Quebec	30 000	30 112	0	Membership increased 49% between 1975 and 1981.
New Brunswick	4 587	2 520	−45	Membership dropped significantly before climbing to 4409 in 1981.
Nova Scotia	5 488	6 899	26	Growth was steady; 4204 members in 1977.
Prince Edward Island	2 364	2 674	13	Data only available for 1973 and 1975.
Newfoundland	1 814	9 259	425	Between 1973 and 1975, membership increased from 2250 to 9529.
NUPGE	1977	1981		
	101 131	210 000	108	

Source: Department of Labour, ***Directory of Labour Organizations in Canada, 1970–1981.***

certifications outside of the government service.[43] While diversification presumably has occurred in other provinces, its impact on union growth has not been documented.

Municipal Governments

Unlike their federal and provincial counterparts, municipal employees are covered by private sector legislation and have enjoyed the right to organize and bargain collectively for decades. However, even though municipal unionism was entrenched earlier, two data limitations affect the analysis of union growth. First, estimates of union membership prior to the early 1950s are too low. Most municipal workers belonged to independent or directly chartered local unions, for which membership figures were not published. However, in 1952 it was reported that "of 32,867 municipal workers affiliated to one of the three labour congresses 22,022 belonged to directly chartered local unions."[44] Secondly, CUPE's membership (which includes non-municipal workers) comprises a disproportionate share of total municipal unionism: 90 per cent in 1981. Because of these data limitations, the membership data presented here should be viewed as an approximate estimate of true municipal union membership.

Prior to 1945, union membership was modest and averaged fewer than 4000 members in most years. The earliest municipal unions included the International Association of Fire Fighters, established in 1918; the Canadian Electrical Trade Union, established in 1922; and the Provincial Federation of Ontario Fire Fighters, established in 1922. After the Second World War, national unions, such as the National Union of Public Service Employees (NUPSE) and the National Union of Public Employees (NUPE), became a major force in the municipal subsector. In 1963 these unions merged to form CUPE. The rapid expansion in municipal employment in the 1950s (from 54 000 to 127 000 employees) was accompanied by large increases in union membership.[45] By 1960 union membership stood at 84 000. Sustained union growth continued over the next two decades: membership rose to 176 000 in 1970 and to 293 000 in 1981. A more realistic estimate of municipal membership in 1981 is approximately 190 000, a figure which was derived from an estimate, provided by CUPE, of the extent of its membership in the municipal field. While the slope of union growth presented in Figure 3-1 is too steep to be accurate, membership did increase steadily between 1960 and 1981.

Following the Second World War, civic workers, like private sector employees, mounted organizing campaigns in response to high inflation and the relaxation of wage controls.[46] As a result, unions were well established in the municipal field as early as 1954. According to a survey conducted by the Canadian Federation of Mayors and Municipalities (see Table 3-6), union penetration was greatest among the larger municipalities.[47] It is estimated that virtually all municipal employees in major urban centres were organized by 1963, and that by 1973, unionization was entrenched in smaller municipalities.[48] These estimates suggest that union organizing in the last twenty years was centred in smaller municipalities and residual bargaining units.

Table 3-6: *Union Penetration in Municipalities*

Size of Municipality	*Municipalities with Collective Agreements and at least One Union*	*Municipalities with No Union*
Exceeding 50 000	22	—
20 000 – 49 000	30	1
10 000 – 19 999	32	5
Up to 9 999	20	26

Source: T.J. Plunkett, "Municipal Collective Bargaining".

It appears that a major influence on union growth has been the sharp rise in municipal employment and the operation of union-security provisions. One estimate suggests that municipal employment increased by 142 per cent between 1959 and 1971 (that is, from 127 000 to 306 000 employees),[49] while another indicates that it nearly doubled between 1961 and 1981 (increasing from 140 000 to 280 000 employees).[50] Union membership even appears to be high under the Rand Formula. A 1968 survey of 112 municipal collective agreements found that 42 (or 37.5 per cent) had union-shop provisions. A majority of collective agreements for police and firefighters followed the Rand Formula, but in each case, these unions claimed memberships of 100 per cent. Membership was also high among other municipal workers covered by the Rand Formula. Unfortunately, the survey failed to specify the number of employees covered by these union-security arrangements. Consequently, it was impossible to judge the extent of compulsory unionism.

There is some evidence which suggests that the union shop is an important source of union growth. Surveys of municipal contracts in Ontario during the 1970s show that 50 to 55 per cent of the collective agreements, which cover two-thirds of the employees, contain some form of union-membership requirement.[51] According to a 1980 survey of 183 municipal contracts in Canada, 70 per cent of the collective agreements covering one-half of the employees contain some form of union-membership requirement. The union shop and modified union shop were the most common arrangements, covering 65 per cent of the agreements and 48 per cent of the employees. Again, the remainder of the municipal agreements appear to be governed by the Rand Formula.[52] The proportion of collective agreements — and covered employees — requiring union membership is higher at the municipal level of government than at the provincial and federal levels.[53] CUPE representatives indicated that the union shop was a major source of membership growth.

In conclusion, following the Second World War, union growth in the municipal subsector was heavily influenced by new organizing, employment expansion and union-security provisions. It appears that although union penetration was approaching the saturation point about 1970, union growth continued during the following decade. It is difficult to isolate the determinants of union growth in this period because it is impossible to control for CUPE membership gains from the health-care and education professions. We would speculate that municipal union growth in the 1970s was more modest than it appears to be in Figure 3-1, and that it can be explained as the result of a combination of employment growth and union-security arrangements.

Health Care and Education

The discussion of union growth in the health-care and education components of the public sector is confined primarily to nurses and teachers. In the absence of longitudinal and disaggregated membership data for CUPE and the Service Employees International Union (SEIU), it is difficult to estimate the extent of non-professional unionism. While non-professional unions, such as the British Columbia Hospital Employees Union, are included in this study, the non-professional component is under-represented.

The existence of professional associations of nurses and teachers can be traced back to the early 1900s. These associations were formed for various reasons, including the setting of standards for qualification and performance and the administration of requirements for entry into the profession.[54] Membership in nurses' and teachers' associations increased rapidly with the employment expansion in the 1960s. While association-union convergence was evident in both subsectors, the growth processes differed. In general, nurses' unions mounted new organizing drives and acquired their bargaining rights through certification. However, since many teachers' associations were statutorily recognized as bargaining agents, association-union convergence was virtually automatic.

There are some similarities in the union-growth patterns of the health-care and education professions. The first unions were reported in the 1940s, but their growth was modest until the mid-1960s. In health care, union membership reached 28 000 in 1965 and grew to nearly 50 000 by 1970; in education, membership climbed from 19 000 to 31 000 in the same period. The largest gains were made between 1970 and 1981, when union membership rose to 205 000 in health care and 335 000 in education. If the estimates of CUPE and SEIU membership in 1981 are added, total union membership would be about 295 000 in health care and 388 000 in education.[55] The adjustment demonstrates that union membership is highest in these components of the public sector.

Between 1971 and 1975, increases in union membership in the health-care field averaged more than 20 per cent annually, and between 1977 and 1978, membership rose another 40 per cent before tapering off. Most of the growth was among nurses' unions: for example, nurses accounted for over 80 per cent of the growth between 1973 and 1975. (Two-thirds came from new organizations that were listed for the first time.)[56] While some nurses in British Columbia were certified in the late 1940s, most nurses' organizations did not embrace collective bargaining until the 1970s.

Nurses' attitudes changed during the 1960s as their salaries fell below those of other professionals, and as salary differentials with those of unionized hospital staffs narrowed.[57] With the advent of government-funded health care and the removal of legal constraints on bargaining, nurses turned to their professional associations for representation.[58] However, the propriety of professional associations acting as bargaining agents was successfully challenged, as follows:

> In 1973, the Supreme Court of Canada upheld a decision of the Saskatchewan Labour Relations Board in refusing certification to a local affiliate of the Saskatchewan Registered Nurses' Association (SRNA) on the grounds that a majority of the SRNA officers traditionally were management. . . . The Su-

> preme Court decision crystallized the contradictions some associations have experienced in combining traditional professional activities and bargaining.[59]

Nurses subsequently established new organizations or semi-autonomous affiliates to act as bargaining agents. At present, approximately 80 per cent of the registered nurses and non-office staff employed in hospitals are covered by collective agreements.[60] While most major hospitals are organized, there is still room for the expansion of both professional and non-professional unions in teaching hospitals and nursing homes, and among clerical staff. However, these segments of the work-force have proved difficult to organize because of strong employer opposition.

Union growth in education was phenomenal between 1971 and 1973, when membership increased from 32 000 to 218 000. Over the next five years, it increased by another 50 per cent before it levelled off. Most of the growth is caused by the emergence of teachers' unions, rather than by the expansion of existing organizations. Unions which were listed for the first time accounted for 97 per cent of the growth in 1972, 85 per cent in 1973, and 80 per cent between 1973 and 1978.

The convergence to teachers' unions followed the introduction of special collective bargaining legislation in the early to mid-1970s. A notable exception was the British Columbia Teachers' Federation, which has bargained over salaries since 1937. Teachers' organizations experienced their largest increases in membership in the pre-collective bargaining era. (See Table 3-7.) The demand for teachers rapidly increased during the 1950s and 1960s, and many teachers

Table 3-7: *Association-Union Convergence*

Year	*Total Membership in Teachers' Associations*	*Total Membership in Teachers' Unions*
1960	106 230	11 084
1965	143 549	14 808
1970	203 915	26 075
1975	313 617	260 616
1978	321 194	321 194

Sources: Unpublished data provided by the Canadian Teachers' Federation and Department of Labour, *Directory of Labour Organizations in Canada*.

were required to join professional associations as a condition of employment. Compulsory membership exists in five provinces; elsewhere, membership is automatic (although the employee is permitted to be written out of the agreement) and, in some instances, the Rand Formula is employed.[61]

The transition from professional associations to unions can be illustrated by comparing teacher-union membership (in Labour Canada) with teacher-association membership (provided by the Canadian Teachers' Federation). During the 1960s, membership in teacher associations increased by about 100 000, whereas union membership increased by a mere 15 000. Association-union convergence began in the early 1970s and was completed by 1978.

Summary and Comments

Employee organization in the public sector has existed since the early part of this century. However, the rise of public sector unionism is a relatively recent phenomenon, which corresponded to the expansion of the public sector after the Second World War. In the municipal subsector, unions were firmly established by the mid-1950s, and membership increased steadily over the next twenty-five years. The pattern and process of growth was not unlike that experienced by private sector unions. However, the growth process differed in that there was greater union-merger activity and less employer resistance in municipalities. In other components of the public sector, membership increased in non-bargaining associations. The move to collective bargaining by staff, occupational and professional associations was gradual, but it gained momentum during the 1960s as dissatisfaction with consultative mechanisms spread. Once the commitment to collective bargaining was made and the legal barriers were lifted, convergence to unions commenced. In rapid succession, federal employees, provincial employees, teachers and nurses organized for collective bargaining, and by 1978, union growth had slowed considerably.

Within the general pattern, there were variations among public sector components in terms of the historical development of associations and the legal and organizational aspects of convergence. In the federal subsector, for example, association-union convergence, as occurred in the formation of PSAC, took place prior to and after the passage of the PSSRA. Growth among provincial employees' unions and teachers' unions, on the other hand, was concentrated in the periods following the entrenchment of collective bargaining. In most components, the process of association-union convergence occurred smoothly, but for nurses it involved more substantial organizational changes. The acquisition of bargaining rights varied as well. While most unions mounted certification campaigns, others, such as teachers' unions and some provincial employees' unions, were the beneficiaries of statutory recognition. Thus, notwithstanding some similarities in growth patterns, the dynamics of union growth vary within the public sector.

Industrial relations scholars have commented that like other institutions, unions develop in stages. The early stages are characterized by militancy and turbulence as unions struggle for their very existence. This phenomenon is followed by a period during which the unions gain acceptance and security. With continued growth and maturity, unions broaden their objectives and centralize administrative structures.[62] Our analysis suggests that the development of public sector unionism differs from this model. Specifically, the emergence of public sector unionism differs from that of private sector unions in two important respects. First, the former was not accompanied by the organizational struggles which are commonplace in the private sector. In most instances, employee organization preceded collective bargaining, and association-union convergence did not encounter strong employer opposition or a hostile legal environment. Indeed, public policy supported the rapid expansion of collective bargaining. Statutory recognition of bargaining agents and the designation of bargaining units provided automatic certification for many established employee organizations, either eliminating altogether the need for organizing campaigns or reducing the likelihood of contested certifications. Secondly, the shift to collective bargaining was motivated by defensive, as well as offensive, reasons, namely, the desire on the part of members to achieve their own economic and social goals. Some professionals began with a limited enthusiasm for collective bargaining and organized in order to avoid inclusion in a bargaining unit or a predominantly non-professional union.[63] Defensive or mixed motives may have existed for other white-collar employees as well. Accordingly, public sector unions gained acceptance and institutional security without conflict.

Although little is known about the effects of so-called 'instant' union growth, we believe that it has important implications for union structure and policy. Future research might consider the following questions: What effect had a change in status — specifically, from non-bargaining associations to unions — and rapid growth on organizational structure and union effectiveness?

Did the emerging unions make a smooth transition, or were they handicapped by inexperience, the lack of a militant past, or structural instability? Did power and control shift from the locals to the national headquarters as union size increased? The consideration that follows is speculative and seeks to stimulate further discussion of these issues.

The principal measure of union effectiveness is bargaining effectiveness. While union members are largely concerned with instrumental goals, such as substantive bargaining achievements or outcomes, Kochan has identified other dimensions of organizational effectiveness. These dimensions include individual and aggregate union growth, internal union democracy, leadership development at all levels of the union, and an efficient administrative system for delivering union services.[64] A thorough analysis of the linkages between organizational structure and effectiveness is beyond the scope of this chapter. We simply wish to note that organizational development may have been affected by the speed and extent of public sector-union growth. For example, PSAC continues to cling to an antiquated structure, based on 'components', such as government departments, each of which is responsible for servicing its own membership and monitoring the collective agreement. This structure appears to be incompatible with the occupational bargaining units which cut across government departments.[65]

It also appears that Canada's largest public sector unions exercise little centralized control over their local unions, a factor which may be linked to the growth process. Many of these unions were formed through mergers which guaranteed autonomy for local affiliates, and both PSAC and CUPE have highly decentralized decision-making structures. The failure to establish more centralized control has been a hotly debated issue in recent years. For example, the 1981 Ontario hospital strike was not simply a protest against compulsory arbitration, but a dispute between local union leaders (and members) and CUPE itself. Deverell pointed out several deficiencies in CUPE's structure, as follows:

> CUPE's obvious weaknesses include: (a) a multiplicity of elected positions barren of power, (b) powerful staff positions, notably the regional directors, unaccountable to an electorate, (c) dues paid to locals and rebated to the central organization, leaving it preoccupied with fiscal survival and debt collection rather than policy and leadership functions; and (d) in the hospital sector, a national servicing staff stretched very thinly, unsupported by any locally paid officers.[66]

While the dispute was by no means over purely structural aspects of the union, it did point up the need for a formal central bargaining agency to represent CUPE in hospital negotiations. In the aftermath of the strike, a bargaining council was formed.

Decentralized decision-making structures can impede union effectiveness. CUPE's failure to establish a central organization for hospital labour relations has important implications for the delivery of such services as labour education, leadership development and contract enforcement, and for the development of a coherent long-run strategy to challenge compulsory arbitration.[67] Some public sector unions, perhaps because they grew so fast, appear to be loose confederations with little centralized authority or cohesion. They give the impression that strong leaders function at the national level, but that local leadership — specifically, those on the firing lines — has not been fully developed, nor has the national union the authority to improve local representation. Whether the same can be said for provincial or occupational unions is uncertain, but the point merits further study.

Union penetration in the public sector appears to be at or near the saturation point. Optimists might argue that there are areas in which growth is still possible. These include the privatization of government operations, organization in the private sector, and mergers. However, these claims are based on numerous assumptions: for example, that private firms will expand, that jurisdictional skirmishes can be won or avoided, and that the complexity and difficulty of mergers can be overcome. By contrast, a pessimistic prognosis suggests that there will be little or no growth in the 1980s. At present, government retrenchment is the major theme of federal and provincial budgets, and in the past year we have witnessed public sector lay-offs, hiring freezes, wage controls and even wage roll-backs.[68] From this perspective, public sector unions will have difficulty consolidating their position, let alone expanding it. Outside of union growth through mergers, there is little potential for expansion, and the prospects appear dim.

We believe that future organizing and bargaining effectiveness will not only be influenced by environmental factors, but by the dynamics of past union growth. While public employment may not grow (and may even decrease) in the 1980s, ample opportunities exist for new organizing in areas of the private sector such as the service and financial sectors. If public sector unions are to expand, they will have to initiate new organizing drives and secure bargaining gains designed to attract new members. One might reasonably ask whether or how 'instant' growth will influence the combative potential of public sector unions. One scenario suggests that it may be a sign of future weakness.[69] Given a predominantly female and white-collar work-force, decentralized decision-making structures and the lack of a militant past, public sector unions are ill-prepared for the challenges of the 1980s. However, there is evidence of increased militancy in the public sector.[70] If this trend continues, unions may aggressively pursue organizing and bargaining goals in the next decade. The magnitude of future union growth is an open question. We believe the diversity of growth patterns within the public sector prior to the 1980s, will influence future events.

Notes

1. Canada. Department of Labour, *Directory of Labour Organizations in Canada*.
2. G.N. Chaison and J.B. Rose, "The Structures and Growth of the Canadian National Unions", pp. 531–35.
3. A Ponak, "Public-Sector Collective Bargaining", p. 344.
4. S.B. Goldenberg, "Public-Sector Labor Relations in Canada".
5. Other limitations are as follows: first, CALURA includes any organization formed for the purpose of regulating employer-employee relations. (It excludes most teachers' organizations and, in the past, excluded nurses' organizations.) Secondly, individual membership figures for independent and directly chartered locals are generally not available. For further information, see P. Kumer, *Canadian Industrial Relations Information: Sources, Technical Notes and Glossary*, pp. 43–46.
6. Membership figures for individual unions were not published for the years 1950, 1974, 1976 and 1979.
7. J. Steiber, *Public Employee Unionism: Structure, Growth, Policy*, p. 3.
8. The sample consisted of international and national unions (except Quebec-based unions) with 5000 or more members.
9. J. Fiorito and C.R. Greer, "Determinants of U.S. Unionism: Past Research and Future Needs".
10. *Ibid.*, p. 4.
11. R. Swidinsky, "Trade Union Growth in Canada: 1911–1970".
12. *Ibid.*, p. 445.
13. The model was tested for the years 1921 to 1969 (and two subperiods) and found to be satisfactory in terms of overall goodness of fit and the significance of the regression coefficients. The model was also structurally stable and had a satisfactory predictive ability. See G.S. Bain

and F. Elsheikh, "Trade Union Growth in Canada: A Comment", p. 482.

14. Chaison and Rose, "The Structures and Growth of the Canadian National Unions", p. 542.

15. *Ibid.*, p. 549.

16. W.J. Moore, "An Analysis of Teacher Union Growth".

17. J.F. Burton, "The Extent of Collective Bargaining in the Public Service".

18. *Ibid.*, p. 15.

19. Ponak, "Public-Sector Collective Bargaining".

20. P. Feuille and J.C. Anderson, "Public-Sector Bargaining: Policy and Practice", pp. 310–11.

21. G.N. Chaison, "Union Mergers, Union Fragmentation and International Unions in Canada".

22. J. White, *Women and Unions*, pp. 29–51.

23. H.W. Arthurs, *Collective Bargaining by Public Employees in Canada: Five Models*, p. 19.

24. Canada, Department of Labour, *Working Conditions in Canadian Industry, 1981.*

25. It is recognized that not all members of public sector unions are employed in the public sector. For example, the B.C. Government Employees' Union has extended its jurisdiction to include office workers in pulp mills. However, such forays into the private sector are infrequent and do not represent a significant proportion of membership. See B. McLean, *A Union Amongst Government Employees: A History of the B.C. Government Employees' Union, 1919–1979*, pp. 126–28, 149–50.

26. The CALURA data are available only for broad industrial classifications, such as public administration and service. In 1979 union membership in public administration was 508 531 (67.8 per cent of paid workers were unionized), and in the service industry it was 638 840 (22.5 per cent of paid workers were organized). Membership figures for components of the public sector are not available.

27. L.W.C.S. Barnes, "Management Unionism in the Federal Public Service", p. 4.

28. Arthurs, *Collective Bargaining by Public Employees in Canada*, pp. 31–32.

29. PSAC was created by a merger of the Civil Service Federation of Canada and the Civil Service Association of Canada (CSAC) and had 92 000 members in 1967. Since CSAC was treated as a union by Labour Canada, there was only a *net* increase of 59 000 union members.

30. Arthurs, *Collective Bargaining by Public Employees in Canada*, p. 20.

31. A. Kleingartner, "Collective Bargaining by Professionals in Federal Employment in Canada", p. 383.

32. Ponak, "Public-Sector Collective Bargaining", p. 350.

33. D.K. Foot, *Public Employment in Canada: Statistical Series*, pp. 50–53; Statistics Canada, *Federal Goverment Employment*, 1977–1981.

34. J. Finkelman, "Some Aspects of Public Service Bargaining in Canada", p. 20.

35. T.A. Kochan, *Collective Bargaining and Industrial Relations*, pp. 187–91.

36. Canada, Department of Labour, *Working Conditions in Canadian Industry, 1981*.

37. Canada Post accounts for 45 per cent of the total. PSAC represents other government employees in the Territories and employees at the Royal Canadian Mint and National Harbours Boards. A unique group is the staff at the Council of Maritime Premiers, which is covered by the Council of Maritime Premiers Labour Code. This information is based on collective agreement data provided by PSAC.

38. Other unions appear to have benefited as well. Membership in the Canadian Air Traffic Control Association, the Canadian Union of Postal Workers and the Letter Carriers' Union of Canada more than doubled between the late 1960s and the mid- to late 1970s. Even PIPS reported large membership gains (36 per cent between 1969 and 1973) as resulting from "an attitude developed among many professionals that it would be wise to join a collective bargaining organization, and that it was perhaps more professional to join the Institute than to wait for some competing organization." (Kleingartner, "Collective Bargaining by Professionals in Federal Employment in Canada".)

39. J.E. Hodgetts and O.P. Dwivedi, *Provincial Governments as Employers: A Survey of Public Personnel Administration in Canada's Provinces*, pp. 61–84.

40. *Ibid.*, pp. 7, 63–64; Arthurs, *Collective Bargaining by Public Employees in Canada*, p. 108.

41. Goldenberg, "Public-Sector Labour Relations in Canada", p. 271. Outside Quebec, provisions were subsequently adopted which allowed other organizations to replace a designated public service association if it no longer represented a majority of the employees in the bargaining unit.

42. Although Labour Canada stopped reporting membership in provincial associations affiliated with NUPGE, Statistics Canada continued to do so. The BCGEU grew from 32 313 to 42 678 members between 1977 and 1979 (an increase of 32 per cent).

43. McLean, *A Union Amongst Government Employees*.

44. S. Frankel and R.C. Pratt, *Municipal Labour Relations in Canada*, p. 3.

45. Foot, *Public Employment in Canada*, p. 26.

46. E.G. Fisher and H. Starek, "Police Bargaining in Canada: Private Sector Bargaining, Compulsory Arbitration, and Mediation-Arbitration in Vancouver".

47. T.J. Plunkett, "Municipal Collective Bargaining", p. 4.

48. According to Plunkett, "Municipal Collective Bargaining", p. 4.

> . . . almost all municipal corporations with a total employee force of fifty or more persons now has (*sic*) a collective bargaining relationship with at least one unit of its (*sic*) employees. While precise figures are not available it is a reasonably safe assumption that most municipal governments with a population of ten thousand or more are involved in a collective bargaining relationship. And there are at least two or three hundred municipal corporations in this category.

49. Hodgetts and Dwivedi, *Provincial Governments as Employers*, p. 7.

50. Hodgetts and Dwivedi's estimate is based on Revenue Canada data, whereas Foot relied on Statistics Canada data (Foot, *Public Employment in Canada*, pp. 50–52, and Statistics Canada, *Local Government Employment, 1977–1981*).

51. The union shop was the most common arrangement, covering about 40 per cent of the agreements and 58 per cent of the employees. This proportion remained steady throughout the 1970s. The remaining agreements are listed as having "no provision", but this can be assumed to mean some form of the Rand Formula, since virtually all of the agreements contain dues-checkoff provisions.

52. Canada, Department of Labour, *Provisions in Collective Agreements Covering Municipal Employees in Canada, June 1980*, p. 3.

53. The percentages for collective agreements and employee coverage, respectively, are as follows: in the federal government, 0 per cent (0 per cent), and in the provincial government, 63 per cent (45 per cent). See Canada, Department of Labour, *Provisions in Collective Agreements in Canada Covering 200 and More Employees: Non-Manufacturing Industries (Excluding Construction)*, pp. 1–2.

54. M. Thompson, "Collective Bargaining by Professionals", p. 387.

55. Membership estimates were provided by the unions. If membership in local faculty unions is added, education membership exceeds 400 000.

56. Previously, many nurses' organizations were listed in Part II (Independent Local Organizations) of the *Directory of Labour Organizations in Canada*. Part II does not include membership data.

57. G.W. Cormick, "The Collective Bargaining Experience of Canadian Registered Nurses", pp. 668–69.

58. Thompson, "Collective Bargaining by Professionals", pp. 382–386.

59. *Ibid.*, p. 388.

60. A. Ponak, "Unionized Professionals and the Scope of Bargaining: A Study of Nurses", p. 399; Canada, Department of Labour, *Working Conditions in Canadian Industry, 1981*.

61. Letter from Geraldine Gilliss, Director of Research and Information Services, Canadian Teachers' Federation, 10 March 1982.

62. R. Lester, *As Unions Mature: An Analysis of the Evolution of American Unionism*, pp. 21–34.

63. Thompson, "Collective Bargaining by Professionals", p. 382.

64. Kochan, *Collective Bargaining and Industrial Relations*, pp. 174–175.

65. J. Williams, "PSAC's Andrew Stewart — A Profile", p. 518.

66. J. Deverell, "The Ontario Hospital Dispute 1980-81", p. 181.

67. *Ibid.* The shortcomings of CUPE's structure in dealing with the Anti-Inflation Board are discussed in A.M. Maslove and G. Swimmer, *Wage Controls in Canada 1975–78: A Study of Public Decision Making*.

68. V. Malarek, "PQ Cuts Pay Raises of 300,000 in Public Service".

69. L.V. Panitch and D. Swartz, "From Free Collective Bargaining to Permanent Exceptionalism: The Economic Crisis and the Transformation of Industrial Relations in Canada".

70. G. Swimmer, "Militancy in Public Sector Unions".

Bibliography

Arthurs, H.W. *Collective Bargaining by Public Employees in Canada: Five Models.* Ann Arbor: Institute of Labor and Industrial Relations, The University of Michigan-Wayne State University, 1971.

Bain, George Sayers and Elsheikh, Farouk. "Trade Union Growth in Canada: A Comment". *Relations Industrielles* 31 (No. 3 1976): 482–90.

Barnes, Ledie W.C.S. "Management Unionism in the Federal Public Service". *IR Research Reports* 2 (No. 2 1977): 4–7.

Burton, John F. "The Extent of Collective Bargaining in the Public Service" in *Public Sector Bargaining*, edited by Benjamin Aaron, Joseph Grodin and James Stern, pp. 1–43. Madison: Industrial Relations Research Association, 1979.

Canada. Department of Labour. *Directory of Labour Organizations in Canada, 1981*. Ottawa: Minister of Supply and Services Canada, 1981.

Canada. Department of Labour. *Provisions in Collective Agreements Covering Municipal Employees in Canada, June 1980.* Ottawa: Minister of Supply and Services Canada, 1980.

Canada. Department of Labour. *Provisions in Collective Agreements in Canada Covering 200 and More Employees: Non-Manufacturing Industries (Excluding Construction).* Ottawa: Minister of Supply and Services Canada, 1981.

Canada. Department of Labour. *Working Conditions in Canadian Industry, 1981.* Ottawa: Minister of Supply and Services Canada, 1982.

Chaison, Gary N. "Union Mergers, Union Fragmentation and International Unions in Canada". In *Proceedings of the 17th Annual Meeting of the Canadian Industrial Relations Association*, pp. 71–91. Quebec: Université Laval, 1981.

Chaison, Gary N. and Rose, Joseph B. "The Structures and Growth of the Canadian National Unions". *Relations Industrielles* 36 (No. 3 1981): 530–51.

Cormick, Gerald W. "The Collective Bargaining Experience of Canadian Registered Nurses". *Labor Law Journal* 20 (October 1969): 667–82.

Deverell, John. "The Ontario Hospital Dispute 1980-81". *Studies in Political Economy* (Fall 1982): 179–90.

Feuille, Peter and Anderson, John C. "Public Sector Bargaining: Policy and Practice". *Industrial Relations* 19 (No. 3 1980): 309–24.

Finkelman, Jacob. "Some Aspects of Public Service Bargaining in Canada". *The Civil Service Review* 43 (March 1970): 18–29.

Fiorito, Jack and Greer, Charles R. "Determinants of U.S. Unionism: Past Research and Future Needs". *Industrial Relations* 21 (No. 1 1982): 1–32.

Fisher, E.G. (Jed) and Starek, Henry. "Police Bargaining in Canada: Private Sector Bargaining, Compulsory Arbitration, and Mediation-Arbitration in Vancouver" in *Conflict and Cooperation in Police Labour Relations*, edited by Bryan M. Downie and Richard L. Jackson, pp. 35–61. Ottawa: Minister of Supply and Services Canada, 1980.

Foot, David K., ed. *Public Employment in Canada: Statistical Series.* Toronto: Butterworth for the Institute for Research on Public Policy, 1979.

Frankel, Saul and Pratt, R.C. *Municipal Labour Relations in Canada*. Montreal: The Canadian Federation of Mayors and Municipalities and McGill University Industrial Relations Centre, 1954.

Goldenberg, Shirley B. "Public-Sector Labor Relations in Canada" in *Public-Sector Bargaining*, edited by Benjamin Aaron, Joseph Grodin and James Stern, pp. 259–291. Madison: Industrial Relations Research Association, 1979.

Hodgetts, J.E. and Dwivedi, O.P. *Provincial Governments as Employers: A Survey of Public Personnel Administration in Canada's Provinces*. Montreal: McGill-Queen's University Press, 1974.

Kleingartner, Archie. "Collective Bargaining by Professionals in Federal Employment in Canada". In *Proceedings of the 25th Annual Meeting of the Industrial Relations Research Association*, Toronto, 28–29 December 1972, pp. 379–86. Madison: The Association, 1973.

Kochan, Thomas A. *Collective Bargaining and Industrial Relations*. Homewood, Ill.: Richard D. Irwin, 1980.

Kumar, Pradeep. *Canadian Industrial Relations Information: Sources, Technical Notes and Glossary*. Kingston: Queen's University, Industrial Relations Centre, 1979.

Lester, Richard. *As Unions Mature: An Analysis of the Evolution of American Unionism*. Princeton, N.J.: Princeton University Press, 1958.

Malarek, Victor. "PQ Cuts Pay Raises of 300,000 in Public Service". *Globe and Mail* (26 May 1982): 8.

Maslove, Allan M. and Swimmer, Gene. *Wage Controls in Canada 1975–78: A Study of Public Decision Making*. Montreal: The Institute for Research on Public Policy, 1980.

McLean, Bruce. *A Union Amongst Government Employees: A History of the B.C. Government Employees' Union 1919–1979*. Vancouver: B.C. Government Employees' Union, 1979.

Moore, William J. "An Analysis of Teacher Union Growth". *Industrial Relations* 17 (No. 2 1978): 204–15.

Panitch, Leo V. and Swartz, Donald. "From Free Collective Bargaining to Permanent Exceptionalism: The Economic Crisis and the Transformation of Industrial Relations in Canada" in *Conflict or Compromise: The Future of Public Sector Industrial Relations*, edited by Mark Thompson and Gene Swimmer. Montreal: The Institute for Research on Public Policy, 1984.

Plunkett, T.J. "Municipal Collective Bargaining" in *Collective Bargaining in the Public Service*, edited by J.F. O'Sullivan, pp. 1–10. Toronto: Institute of Public Administration of Canada, 1973.

Ponak, Allen. "Public-Sector Collective Bargaining" in *Union-Management Relations in Canada*, edited by John Anderson and Morley Gunderson, pp. 343–78. Toronto: Addison-Wesley, 1982.

Ponak, Allen. "Unionized Professionals and the Scope of Bargaining: A Study of Nurses". *Industrial and Labor Relations Review* 34 (No. 3 1981): 396–407.

Simmons, G.S. "Collective Bargaining at the Municipal Government Level in Canada". Draft study prepared for the Task Force on Labour Relations, March 1968 (unpublished).

Statistics Canada. *Federal Government Employment, 1977–1981*. Ottawa: Minister of Supply and Services Canada.

Stieber, Jack. *Public Employee Unionism: Structure, Growth, Policy*. Washington, D.C.: The Brookings Institution, 1973.

Swidinsky, R. "Trade Union Growth in Canada: 1911–1970". *Relations Industrielles* 29 (No. 3 1974): 435–51.

Swimmer, Gene. "Militancy in Public Sector Unions" in *Conflict or Compromise: The Future of Public Sector Industrial Relations*, edited by Mark Thompson and Gene Swimmer. Montreal: The Institute for Research on Public Policy, 1984.

Thompson, Mark. "Collective Bargaining by Professionals" in *Union-Management Relations in Canada*, edited by John Anderson and Morley Gunderson, pp. 379–97. Toronto: Addison-Wesley, 1982.

White, Julie. *Women and Unions*. Ottawa: Minister of Supply and Services Canada, 1980.

Williams, Jack. "PSAC's Andrew Stewart — A Profile". *Labour Gazette* 76 (October 1976): 518–21.

4: *Tensions Within the Labour Movement in Quebec: Relations between the Public and Private Sectors in Three Case Studies from 1972 to 1982*

JAMES THWAITES

With the assistance of
MARIO LAJOIE

James Thwaites is Associate Professor, *Département des Relations Industrielles, Université Laval.*

Contents

Introduction 125
First Case Study: The Schism in the CNTU 128
  The Schism 128
  The Perceptions of Interested Parties 128
  Evaluation of Causes 131
Second Case Study: The Abortive Attempt at Unity Between the CEQ and the CNTU 133
  The Unity Debate 133
  The Perceptions of Interested Parties 134
  Evaluation of Causes 135
Third Case Study: The 1982 Schism in the CLC 136
  The Schism 136
  The Perceptions of Interested Parties 137
  Evaluation of Causes 139
Conclusions 140
Notes 142
Bibliography 145

Tensions within the Labour Movement in Quebec: Relations between the Public and Private Sectors in Three Case Studies from 1972 to 1982

Introduction

Labour unity, Eugene Forsey once pointed out, has been more often respected in the breach than in the observance.[1] This was particularly true of Canada in the period from 1902 to 1956, which preceded the founding of the Canadian Labour Congress (CLC). Even after that historic merger, there was a notable exception in Quebec. Affiliates of the former Trades and Labour Congress of Canada (TLC) and the Canadian Congress of Labour (CCL) combined to create the CLC-affiliated Quebec Federation of Labour (QFL), but overtures to the Canadian and Catholic Confederation of Labour (CCCL) failed.[2] The latter, transformed into the Confederation of National Trade Unions (CNTU) after 1960, has remained independent of the QFL to this day. Indeed, the split in 1972 between the *Centrale des syndicats démocratiques* (CSD) and the CNTU created another rival group. Between 1976 and 1978, the CNTU unsuccessfully attempted a merger with the powerful *Centrale de l'enseignement du Québec* (CEQ),[3] which had clearly indicated its intention to join in union-style action after 1970. To complicate matters further, the 1970s were to witness a proliferation of unions which were unaffiliated with existing centrals. The result at the end of the 1970s was a collection of four centrals and a series of independent federations or unions.

Table 4-1: *Abbreviations of Labour Organizations' Names*

AFL-CIO	American Federation of Labour — Congress of Industrial Organizations
CCCL	Canadian and Catholic Confederation of Labour
CCL	Canadian Congress of Labour
CEQ	*Corporation des enseignants du Québec* (1967–1974)
CEQ	*Centrale de l'enseignement du Québec* (1974 +)
CFL	Canadian Federation of Labour
CLC	Canadian Labour Congress
CNTU	Confederation of National Trade Unions (appears in French quotations as CSN)
CSD	*Centrale des syndicats démocratiques*
FIPOE	*Fraternité interprovinciale des ouvriers en électricité*
FSSA	*Fédération des syndicats du secteur de l'aluminium*
IBEW	International Brotherhood of Electrical Workers
QBTC	Quebec Building Trades Council (the Quebec Branch of the AFL-CIO Building Trades Department)
QFL	Quebec Federation of Labour (appears in French quotations as FTQ)
SAQ	*Société des alcools du Québec*
SFPQ	*Syndicat des fonctionnaires provinciaux du Québec*
TLC	Trades and Labour Congress of Canada

From the time of the Quiet Revolution, the union movement expanded, particularly through substantial increases in the tertiary sector of the economy, as well as through the affiliation of public sector workers to union centrals. Indeed, a substantial part of this increase can be attributed to the public sector, particularly from the mid-1960s on, when massive affiliations took place. In both the CNTU and the CLC, the private sector element, which formerly had been numerically dominant, had to make room for an imposing new public sector element. The result was an organizational adjustment to accommodate the newcomers.

Relations between the public and private sectors within the union movement are a subject of current debate, both inside and outside of unions. Discussion often centres on the degree of compatibility between the two branches and points to internal dissension, and even to splits.[4] What one might call the 'public/private' issue is very real and a source of serious problems for unions. At the same time, it is but one of a constellation of such problems that have periodically affected unions, such as the conflicts between craft and industrial unionism, national and international unionism, and business and radical unionism. Indeed, at times, each of these issues has divided the movement or prevented its unification, though reconciliation has sometimes been achieved through a variety of compromises. The public/private issue may, in a sense, be no different. But that does not permit us simply to dismiss the difficulty as something that may eventually disappear or be accommodated or that may contribute to management's manoeuvres against labour. In fact, over the last decade, interested parties from both sides have referred to the problem during times of crisis within the union movement.

Given the repercussions of the public/private sector issue, the problem warrants examination in order to determine its effects and impact. In this chapter I shall attempt to measure its significance for the union movement. In doing so, I have chosen to neglect examples of reconciliation so that the emphasis can be placed on crises. To dovetail the results of an investigation along these lines with results furnished by cases of successful conflict resolution within organizations thus lies beyond the scope of this chapter, but such an undertaking is an obvious next step.

Because of the extent of even this aspect of public/private sector relations and in view of the other studies contained in this book, I shall confine myself in this chapter to Quebec's experience. In doing so, I shall rely on a sample of case studies selected according to three basic criteria. First, it was necessary that the studies be based on an adequate number of cases in order to permit generalization. Secondly, it was necessary to choose events of the same character, if not of the same importance, to permit comparison. Thirdly, the study had to take place over an adequate period of time in order to provide a control for the variable of social and political development. Among the events satisfying these conditions are the schism between the CSD and the CNTU (in 1972), the abortive unity movement between the CEQ and the CNTU (from 1976 to 1978), and the schism between the Canadian Federation of Labour (CFL) and the CLC (in 1982), at the provincial and federal levels. The method of analysis used is that of causal analysis, with particular reference to Hart and Honoré's classic work.[5] I shall start with a description of each crisis and shall work back to its *raison d'être* in order to determine to what extent the public/private question was involved. In each case, reference is first made to the perceptions of interested parties and is followed by analysis both of these perceptions and of their translation into action.

First Case Study: The Schism in the CNTU

The Schism

During the 1972 Common Front (see Chapter 7 of this volume), fissures began appearing within the CNTU. The outcome was a dramatic split of the central into three groups: the rump of the CNTU, a new central (the CSD), and a few independent unions, such as the *Syndicat des fonctionnaires provinciaux du Québec* (SFPQ). Statistics vary on the numbers involved in the schism. The CSD, for example, originally claimed 21 000 members, but in retrospect was much more conservative, estimating its founding membership at 10 311.[6] The SFPQ estimated its membership at 26 241.[7]

When the group that was to form the CSD broke away from the CNTU, it took with it three members of the former CNTU executive, several members of the head-office staff, and three entire federations. These federations, all of them private sector organizations, were in the construction, clothing and textile trades. Elements of other federations from the fields of metallurgy and commerce, financial institutions, and the public and parapublic sectors also joined. The independent (unaffiliated) unions, on the other hand, included the SFPQ, the *Fédération des syndicats du secteur de l'aluminium* (FSSA), and the employees of the *Société des alcools du Québec* (SAQ). The exact numbers of unionists involved are of less importance than the tendencies they created. Indeed, these tendencies have persisted to the present.

The Perceptions of Interested Parties

Each interested party had, of course, its own version of the events of the schism and their significance. The CSD, for example, looked to the previous decade in search of an explanation. It claimed that the CNTU had set itself a dual objective in the face of the profound changes which had influenced Quebec society during the 1960s. The first objective was the formulation of a viewpoint on socio-political questions, as contained in the position papers *Une société bâtie pour l'homme* and *Le deuxième front*. The second objective involved the unionization of workers, primarily those in the public service and the teaching profession. Both objectives were aimed at permitting the CNTU to play a dynamic role in the emerging society. The CSD's reproach was that the CNTU had not properly evaluated the impact of such a role on its union activities.[8]

Efforts to achieve the first objective had led to social and political agitation which, in turn, had affected the entire organization. The objective failed on the local level, within both political action committees and community-oriented activities. Then it escalated to the provincial level through intercentral conferences and the Common Front.[9] In short, the CNTU had virtually become a political party.[10] The second objective involved a massive entry of white-collar workers into the CNTU, and it contributed to the politicizing of the central because of the very nature of the employer in the public sector, namely, the government. It thus encouraged the 'promoters of political action' to escalate the CNTU's political involvement. At the same time, the presence of these new recruits amplified an already growing bureaucracy. Individual members and affiliated associations had to cope with an increasingly complicated structure, as well as with a proliferation of rules and regulations. The Common Front, also a result of this new presence, simply added another structure to an already cumbersome organization.[11]

The net effect of the attempts to achieve the former objective was to drain into social and political intervention energy that could have been better spent on purely union activities. The net effect of the latter objective was to cut the leadership off from the membership and to surround it by technocrats.[12] In its discussion of the public/private question, the CSD highlighted tensions between the public and private sectors, pointing out that "blue collar workers had been traumatized by their brothers in the public sector". The CNTU, moreover, had made matters worse by refusing to recognize the fundamental differences between the two groups of members and the fact that different approaches were therefore required.[13] Prior to the schism, the group that eventually became the CSD reputedly suggested that a system of dual representation be introduced at the executive level of the CNTU. Such a system was to include two vice-presidents, one from the private sector and the other from the public sector. The proposition was apparently supported by six private sector federations.[14]

CNTU documents relating to the schism tell another tale. The crisis was explained as the result of three factors: a general conspiracy outside the central, the failure of the seceding groups to adjust to the increased size of the central and to the structural reform, and lukewarm unionism. With regard to the first factor, the schism was analysed, along with anti-union efforts, as part of a concerted plan by the Bourassa government to break the CNTU, in particular, and militant organized labour, in general. Reference was made to a report of an American consulting firm, apparently commissioned by the government, which pointed to militant labour as one of Quebec's key problems. The CNTU also noted the series of special legislation that was adopted, as well as the constant confrontation and attempts at subterfuge. Thus, the CSD was playing into the hands of government and management.[15] With regard to the second factor, the CNTU claimed that CSD sympathizers had been unable to adjust to the CNTU's 1968 structural reform that was necessary because of its rapid growth through the addition of a substantial number of public sector employees, and the increasing tendency of member unions and federations to request intervention by head office during conflicts.[16] For the CNTU, the problem centred around the *Conseil confédéral*, a general forum for policy making, in which all of the important questions were debated and resolved. The CNTU argued that this forum had made possible greater co-ordination of action — for example, during the Common Front negotiations and strike — but that it also frustrated the more conservative units that were used to the old, informal system.[17] Finally, the CSD was accused of lukewarm unionism, which became particularly apparent through the new, more democratic structures. Its sympathizers simply would not take the strong dose of democracy that was necessary to the functioning of the CNTU after 1968.[18]

An often forgotten, but vitally important, factor in the 1972 split is the rationale behind the departure of the SFPQ. This union had become affiliated with the CNTU for at least some of the same reasons that the CNTU itself had become involved in the sociopolitical debate of the 1960s.[19] The SFPQ had also questioned its membership in the central after affiliation, first in 1969 and then again in 1971. The second time, a referendum was held which went in favour of continuing membership in the CNTU (33.3 per cent against and 64.3 per cent in favour, with 14 663 members voting out of a possible 26 241).[20] The reasons given by the disenchanted wing of the SFPQ included a lack of information on services available from the CNTU, a lack of interest in the central's objectives, the cost-benefit imbalance of services obtained, hostility to CNTU affiliation, the hostile attitude of other CNTU members and headquarters staff towards public servants during the preceding convention, and the sheer cost of belonging to the CNTU.[21] After the 1972 split, *Le journal SFPQ* put the accent on two additional problems [illegible] politicization and the incorrect use of finances.[22] Given the proxi[illegible] the referendum and the split, it is fair to associate the two l[illegible] causes of dissatisfaction, which, in fact, dovetail quite nice[illegible] regroups the themes of services, costs and interest, it is [illegible] to include six or seven out of the nine sources of conflict cited in 1971 and 1972. Two of the remaining themes seem peculiar, in view of the CSD-CNTU debate. They constitute a reaction to explicit and/or implicit hostility expressed towards public servants by other CNTU members and head-office staff. The second vote, taken in 1972, indicates an increased number of 'nays'. More members voted in that year than in 1971 (81.6 per cent, as compared to 55.9 per cent), and the negative vote amounted to 51.3 per cent.[23] It was hardly a resounding victory for the 'nays', but the decision has not yet been reversed. After the vote, *Le journal SFPQ* rejected formal links with other centrals, concluding that "We are strong and we know it."[24]

Evaluation of Causes

As far as the perceptions of the interested parties are concerned, the schism of 1972 seems, in large part, to have been inevitable. The CSD was convinced that the CNTU's two-pronged objective, formulated at the height of the Quiet Revolution, had been adopted prematurely and without sufficient consideration of its impact. Both of these aspects spelled trouble for the future, for social and political agitation would drain energies from concerns that were specifically union related, while expansion in the public sector would upset the internal *status quo* from both a structural and a functional point of view. In fact, the CSD claimed that those were its exact consequences. The public sector, as a result, played an important role in the CSD's explanation, for it was at the root of the expansion and contributed to the social and political agitation because of its employer and composition. Separation was the only way out, for the central was beyond hope. The CNTU attributed the schism to government-management efforts to weaken it, the failure of CSD members to adjust to more formal systems, and the conservatism of the breakaway group.

In evaluating the causes of the schism, the SFPQ appeared to be preoccupied mainly with services, costs and interests; the latter was expressed in terms of a lack of interest in the CNTU itself, as well as its objectives. It was also alienated by differing orientations and clashes of opinion with other elements within the CNTU. Information on the schism, published by both interested and disinterested observers, has concentrated on the CSD-CNTU crisis, to the exclusion of the conflict between the SFPQ and the CNTU. Only more recently has the question of public sector defections become an object of inquiry. Regarding the CSD-CNTU crisis, some authors have stressed ideology or political orientation as the main sources of internal dissension,[25] and most have tended to link these factors with other questions in order to explain what happened.[26]

Subsequent actions of the parties also shed light on the causes of the split. The CSD, for example, continued its independent existence and expanded on its original base. It has remained largely aloof from the subsequent socio-political debate involving the CNTU and the provincial government. On the public sector question, a discussion took place during the CSD's first conference, which resulted in a motion to exclude "teachers' unions, professionals' unions, and those of civil servants" from the new central. It was, however, voted down. Speaking for the 'nays', CSD officer Yvon Valcin argued that not all of the 'intellectuals' posed a problem, but only some of them, and because some might want to join the new central in the future, it would be a mistake *not* to leave the door open.[27] Indeed, the issue was a delicate one, for six public sector unions (6.8 per cent of total membership) had by then left the CNTU for the CSD. A handful of other public sector workers did affiliate, and so ten years later, there were forty-nine unions with 8932 members (14.4 per cent of the total).[28]

The CNTU did not renounce the public sector in its subsequent plans for expansion. In fact, as will be seen below, it attempted a merger with the 85 000-member CEQ during the years from 1976 to 1978. The question of public/private union relations within the central remains sensitive and has been constantly evident. It was an issue in the 1982 election of the CNTU's new president. As far as the SFPQ is concerned, it has remained independent of the CNTU and all other centrals.

One of the problems of comprehending the causes of the 1972 schism, particularly with regard to the public/private question, is the divergent terminology used to describe the protagonists. CSD literature, for example, used expressions ranging from 'white-collar workers', 'intellectuals' and 'radicals' to 'public servants' and 'public sector employees', to describe public sector employees. The CNTU vainly protested that most public sector employees were blue-collar workers, were not intellectuals by any reasonable definition, and were not necessarily radicals. On the last point, one recalls the SFPQ's reasons for defection. If one tries to sort out this complex web of charges and countercharges, it appears that from the standpoint of the CSD, the problem of the public sector involved not *all* of that sector, but *part* of it — presumably the most vocal and radical part — which must have dovetailed with an intellectual element within the head-office staff in the context of the late 1960s and early 1970s. Comments on political radicalism further clarify this issue.

Even the CSD's initial statements pointed to the necessity of political action, but stopped short of wholesale intervention and activities resembling those of a political party.[29] A couple of years later, the CSD proposed a more radical approach to relations with the government.[30] Subsequently, it became clear that the real concern was with Marxism.[31] The preoccupation with politics found a partial reply outside the union movement through the founding of the *mouvement des cent*, a political group composed of various activists, among them trade unionists like Raymond Laliberté and Marcel Pépin.[32]

Second Case Study: The Abortive Attempt at Unity between the CEQ and the CNTU

The Unity Debate

The possibility of unity between the CEQ and CNTU traces its distant origins to 1970, when a CEQ convention requested a preliminary study of the implications of such a union.[33] A subsequent convention, in 1972, was more specific, calling for a study, provincial and regional meetings, and the founding of a permanent intercentral secretariat, as well as a permanent political committee with regional links.[34] It is possible, of course, to interpret sentiment for unity as part of the spirit of solidarity that was demonstrated up to and including the first Common Front, and it *did* encompass all three centrals. That idea, however, did not die in 1972, for the CNTU's convention in 1974 adopted a resolution to create an interunion committee to study the unification of all three centrals.[35] Two years later, unity with the CNTU was discussed extensively. Lip-service was paid to the three-central project, which doubtless excluded the CSD, but the accent was on the CEQ and CNTU as likely partners. In 1978, upon the defeat of President Charbonneau, this initiative was abandoned, and it has not been revived since.

After the blow suffered by the CNTU in 1972, the possibility of integrating the 85 000-member CEQ into its ranks must have been attractive. It is less clear what the advantage would have been for the latter organization. For these reasons, as well as because of the apparent assumption by the CEQ of leadership in the unity debate and the internal division which resulted, attention here will be paid exclusively to events within that central.

The Perceptions of Interested Parties

Discussion over unity between the CEQ and the CNTU was very intense between 1976 and 1978, and abated thereafter. During the CEQ's 1976 convention, the format of such a union was debated. One model pointed to conserving existing organizations, while creating between them a "council of unions in the public and parapublic sectors". Another proposed the founding of a central reserved exclusively for the "public and parapublic sectors".[36] In his role as president, Yvon Charbonneau intervened to reject the latter approach and favour the former, stating in addition that it was time to go beyond "partial and occasional" common fronts.[37] At the time, Charbonneau's argument prevailed.

In spite of the references to all centrals, the focus was clearly on the CEQ and the CNTU. This became evident when a joint CEQ-CNTU committee started producing documents to inform the debate. Its *Déclaration d'intention relative à l'unité syndicale* of 1977, although officially a working paper, stated the case for unity, the steps necessary to achieve it, and the problems of integration. The arguments for unity included the following: workers have a common class interest; they are interdependent on the regional and industrial levels; their centrals are complementary with regard to membership and resources; they would be more efficient through unity; and unity would facilitate various forms of action. Regarding the steps to achieve unity, the paper stated that it would be necessary to convince the vast majority of unionists of its usefulness, as well as of the need to respect union autonomy; to define its aims clearly; to extend the debate beyond the CEQ and the CNTU (leaving the door open); and to "demonstrate that the private sector has its place in the new project". The remaining problems concerned finances (such as dues and a strike fund), members (their status and jurisdiction), structures (the integration of human resources and services) and roles (the powers and status of elected officers).[38] As if in reference to Charbonneau's comments, the document insisted on the rejection of an exclusive public sector central, claiming that "workers in both sectors have fundamental interests in common. . .and have supported one another often in the past". A common union central should, therefore, be the goal and be capable of "representing the specific viewpoint of each".[39]

During the 1978 convention, the die was cast. Two particular concerns were evoked: the fear of building an enormous bureaucracy (because it would be difficult to control) and the fear of increasing political action.[40] Charbonneau, in the face of such reactions, defended the idea of unity by attacking the opposition within his central. Where did their idea that they were different from other workers come from, he asked. Were CEQ members reluctant to translate into action the ideas they had been proclaiming? Was the debate over the schools being at "the service of the majority" just an empty issue?[41] But his appeal was of no avail. President Charbonneau's opposition crystallized around challenger Robert Gaulin, who favoured only occasional unified action.[42] This issue was, no doubt, significant, though certainly not the only one, in Gaulin's achievement of an election victory with a majority of 53.8 per cent. Charbonneau had hardly been crushed, but his arguments in favour of structural unity were, henceforth, a dead letter. Subsequent resolutions on this subject favoured unity of action and deemed structural unity 'premature'.[43]

Evaluation of Causes

The arguments used by the interunion committee are quite clear. While structural unity had distinct advantages for the union movement, drawbacks such as the need to respect autonomy and legitimate differences between public and private sectors were identified to counteract them. No artificial segregation between the latter would be acceptable, in the interest of solidarity and impact. These were the positions President Charbonneau adopted and defended as his own. Opposition revealed itself most clearly during the 1978 convention, when Charbonneau and Gaulin contested the presidency. The loss of the popularity of structural unity may be ascribed to a spirit of 'What's in it for me?' and a hesitation to link the CEQ with another central of workers. The structural unity dossier was never revived, and the CEQ reverted to the pre-1976 pattern of unity through concerted action in certain circumstances. Charbonneau, it should be noted, did win a substantial part of the vote, specifically, 45.4 per cent, and he was subsequently hired by Gaulin as adviser to the CEQ. (Indeed, in 1982, he was to be re-elected by a majority of 68.3 per cent.) And, of course, the election was not won exclusively on the issue of unity.

There is another aspect to this question which does not appear in the above debate. If one refers to the case of the SFPQ during the 1972 schism, as well as to the criteria for independent unionism developed by Delorme and Veilleux[44] and to criticism raised by Charbonneau himself concerning his opponents, the CEQ appears as an 'independent union', that is, self-sufficient, powerful, and hesitant about involvement. The queries about increased bureaucracy and political action that were raised in 1978 bring to mind the objections of the SFPQ. In addition, the CNTU had been defeated on several occasions since 1972, which must have detracted from its positive points.

Finally, there had also been a significant change in Quebec society, which extended beyond the union movement. The Parti québécois (PQ) had come to office in 1976 on a social-democratic platform and with a history of social-democratic arguments against the previous government. One of its first efforts in office had been to abandon the prosecution of unions undertaken by the Liberals as a result of conflicts during the second Common Front. In doing so, René Lévesque was making an appeal for union support, declaring that the PQ had a 'labour bias'. A substantial number of CEQ members were Lévesque supporters and were ready to collaborate. In this new context, Charbonneau's politics of inevitable confrontation were clearly unacceptable to many. The unity movement was, perhaps, a victim of circumstances.

Third Case Study: The 1982 Schism in the CLC

The Schism

It was evident in 1981 that tension existed between building-trades unions and the CLC. The apparent source of conflict was the refusal of the construction unions to pay dues to the central, a move they made as an expression of disagreement on a number of issues. In March of that year, this action resulted in the suspension from the CLC of twelve AFL-CIO building-trades unions (which were responsible for 12.6 per cent of the central's budget in 1981).[45] It was not until the following year, however, that the crisis began to take on a more permanent aspect. In March 1982, a separate central was officially established under the name of the 'Canadian Federation of Labour' (CFL). Nine of the twelve unions that had been suspended a year earlier took part in the founding, while the other three remained independent. This brought the CFL's membership to 202 494, that is 5.6 per cent of organized labour in Canada.[46] Both the CLC and the CFL left the door open to future discussion and collaboration, but it remains to be seen what this means in light of the events of 1982–1983.[47]

The Perceptions of Interested Parties

One of the clearest and most authoritative versions of the CFL's statement of grievances is that presented to the founding convention by Chairman Ken Rose, a vice-president of the International Brotherhood of Electrical Workers (IBEW). Mr. Rose argued that the CLC had had three goals at the time of its founding: amalgamation, understanding, and consolidation and growth.[48] The CLC had succeeded in achieving the first and third of these goals, but had failed in its goal of understanding. Mr. Rose then put the accent squarely on events in Quebec, stating: "If the rights of our unions and the rights of our collective membership in the Province of Quebec had been protected we would not be here today."[49] He was referring to the allegedly hostile attitude of the QFL and the CLC towards the suspension by the Quebec Building Trades Council (QBTC, the Quebec branch of the AFL-CIO Building Trades Department) of a national union which had previously withdrawn from the IBEW.[50] Later, he also mentioned raiding, doubtless with these events in mind. The CLC leadership was also criticized for its preoccupation with long-term objectives and its consequent neglect of those for the short term.[51] Relations between public and private sector unions were addressed when CLC structures were attacked as 'undemocratic', thereby permitting the 'tyranny of the minority'.[52] Elsewhere, the CFL supported this claim by comparing the convention voting strength of public sector and building-trades unions, and concluded that "Public Service Unions have 45.6 percent of the vote with 27.9 percent of the membership while Building Trades Unions have 7.2 percent of the vote, with 15 percent of the membership."[53] Each local of a union that was affiliated to the CLC was entitled to send at least one delegate to a CLC convention, plus additional delegates for each 1000 members that exceeded a base number of 1000. Since most public sector unions had a large number of small locals, this system gave them proportionately more delegates than it gave the building trades, which traditionally have a small number of large locals.

Rose insisted that clear distinctions be made between the responsibilities of the CFL at the national level and those of its 'provincial councils', an issue which had posed a problem for the CLC. Some position papers presented during the convention also recommended limitations on the power of the central body. In relation to the process of organizing, for example, responsibility was to remain with the affiliates, with the 'assistance' and 'co-ordination' of the CFL's head office to be offered only when requested. In addition, a structure of intra-central grouping by department for unions with similar needs would be adopted.[54] Rose also argued that the CFL's structure must be compatible with the division of power over labour and related matters between Ottawa and the provinces. Finally, he held that the CLC should not become involved in politics by supporting the NDP and its socialist ideology.[55] These arguments are echoed in a more thorough fashion in the position papers, one of which supported a non-partisan approach to politics, proposing, instead, lobbying which would be backed up by appropriate local structures.[56] A second statement recommended that participation take place wherever possible and, specifically, in "all National or Regional Committees, Councils, Task Forces and Commissions" considered to be relevant.[57]

The CLC, of course, had another explanation for the crisis. There were, it claimed, three points at issue: a jurisdictional dispute between industrial and building-trades unions in British Columbia, another between factions of the building-trade in Quebec, and pressure by the building-trades unions to alter substantially CLC conventions.[58] The first dispute was simply the result of the downturn in the economy in the late 1970s, which had had a 'severe negative effect' on employment in the building trades and had revived the old competition between the industrial and craft unions. The CLC pointed out that a solution had been found through the restructuring of the Building Trades-Industrial Union Labour Liaison Committee and the signature of an agreement in June 1979.[59] The second issue, claimed the CLC, had been created, in part, by the building trades themselves in 1972. Before that date, the IBEW had permitted its members to choose whether or not they would participate in a union-run pension plan. Most Quebec members had opted out. When the IBEW made participation compulsory, 13000 Quebec members left to found a separate union, the *Fraternité interprovinciale des ouvriers en électricité* (FIPOE). Subsequently, FIPOE was admitted to membership in the QBTC. Later, however, FIPOE's growing influence within the council became disturbing in the eyes of its international members, with the result that it was expelled at the 1979 AFL-CIO Building and Construction Trades Department Convention in San Diego. Because Quebec's legislation had the effect of "assigning bargaining for all Quebec construction workers" to the QBTC, the QFL countered by creating a rival, QFL-Construction, and the provincial government obliged by passing legislation allowing workers to choose between the two groups. In March 1981, more than 70 per cent of workers voted to join QFL-Construction.[60]

The third and final issue, which was the crucial one for the CLC, concerned "voting procedure at Congress conventions". The CLC believed that the issue was an effort to protect the building trades' interests in the face of the growth of public sector unionism. A solution had been forthcoming at the 1980 convention, but, curiously, the building trades had decided to boycott the meeting. The building-trades unions demanded changes that were in fundamental contradiction to the CLC's practice since its founding in 1956. The dissidents wanted to remove the right to choose convention delegates from the local unions and give it to international and national union headquarters, as is the practice in the United States.[61] The strategy of the building trades was to change the interpretation of their constitution to permit their leadership to "dominate their locals and secure their positions".[62]

Evaluation of Causes

The CFL's position included five basic reasons for the conflict: the situation in Quebec, the neglect of short-term objectives in favour of long-term objectives, faulty structures and undemocratic voting procedures during conventions, undue influence of the CLC's head office, and faulty political strategy and the lack of participation. The CLC's position covered only three of these factors: friction between industrial and craft unionism, illogical and unrealistic positions adopted in the Quebec situation, and hostility towards democratic convention structures and voting procedures.

Observers of the conflict cannot be grouped in a single category. For example, an article in the *Financial Post* presented a favourable version of the CFL's position,[63] while another article in the *Toronto Star* did the same for the CLC.[64] Others attempted a certain neutrality. Probably the most balanced account is that provided by Joseph B. Rose, who points to three issues: "the schism between national and international unions, philosophical differences between craft and industrial unionism, and French and Anglo-Canadian tensions". The first issue is explained in terms of the growing national orientation within the CLC and its consequences for structures, actions, ideology, and, in particular, for the international building-trades unions, which the author sees as the last negative voice. The second point is covered in an explanation of essential differences between the two forms of unionism, crystallized in the philosophy of Samuel Gompers, on the one hand, and on the other, the social-democratic philosophy of NDP supporters, such as CLC President

Dennis McDermott and the more left-wing public sector unions. Finally, the third factor is explained in terms of the QFL's special status within the CLC, which is based on the complex multicentral context in Quebec.[65]

The CFL's point about the emphasis on long-term objectives, the CLC's point about craft and industrial union rivalry, and Rose's point concerning nationalism can be classified as background elements in the present conflict. The argument raised by the CFL regarding political strategy and participation, and that raised by Rose concerning philosophical differences, are essentially the same. These arguments are more relevant to the events in question than are the background issues without, in themselves, providing sufficient causes. Thus, analysis is restricted essentially to two points: the Quebec situation, and structures and voting procedures at CLC conventions. Despite the use of different terminology, each source deals with both of these points. It becomes apparent, then, that the real question is as follows: Given background elements, such as those first cited, and given the political-ideological divergency, was the Quebec crisis sufficient to provoke the CFL-CLC schism, or was the division over convention structures and voting procedures (either the CFL's or the CLC's version) sufficient, in itself, to provoke it? Because the question about structures and voting was already in existence, the Quebec crisis seems to have been the more significant of the two.

Conclusions

To this point, an effort has been made to discover the various causes of the three crises selected and to assess generally their respective importance. What is evident is that the issue of relations between the public and private sectors was present in each of the cases examined. What is unclear is the specific significance of this issue. Was this issue the only factor of any importance? Was it, like the lighted match in a heap of paper, a necessary *factor*, given the existence of other factors? Or was it, like the oxygen necessary to make the paper burn, the necessary *condition*, in the sense of being an essential element?[66]

Previous to the 1972 schism in the CNTU, structural changes had been undertaken mainly because of the presence of a substantially enlarged public sector contingent. The public sector was also considered to have amplified the political orientation of the CNTU and its confrontation with the provincial government. After the crisis, however, the CSD preferred to leave the door open, excluding only the radicals or Marxist-oriented individuals among its former associates. The SFPQ, for example, did not fall into this category. After the crisis, the CNTU expressed its confidence in combining both sectors by making a bid for public sector recruits at the CEQ, but that attempt failed for reasons beyond its control. In the 1972 schism, therefore, the deterioration of relations between the two sectors was certainly not the only cause. Nor was it the necessary factor in the first sense, that is, as represented by the lighted match. It was, nevertheless, a necessary condition in the second sense, that is, as represented by the oxygen: it was, in fact, an essential element.

In the case of the unity debate between the CEQ and CNTU, the public/private theme was also evident. It appeared in a positive form in the hands of the pro-unity faction, as an argument based on the feasibility and desirability of structural unity between the two centrals. It also appeared in a negative sense in Charbonneau's attacks on the opposition in 1978, taking the form of criticism of those who were reluctant to associate themselves with 'labour'. Otherwise, the arguments used against unity resemble those used to justify the separation of the SFPQ from the CNTU in 1972; in other words, they resemble those justifying a strong independent union in the public sector, for the CEQ was certainly a viable, self-contained unit. Thus, in the unity debate, the problem of relations between the public and private sectors was certainly not the only cause for the failure of the plan. Nor was it a necessary cause in either the first or second sense.

In the last case, that is, the 1982 schism in the CLC, the public/private question was present as well. It was clearly involved in the debate over convention structures and voting rules at the federal level. In fact, the CFL's comparisons specifically identified the public sector unions in its demonstration of unequal representation. The attack was aimed ostensibly at the structures and rules, but behind them lay the real target: public sector unions within the CLC. Moreover, in CFL literature, these public sector unions were associated with nationalism and radical politics. The CLC, on the other hand, continued to attempt to appeal to both sectors. However, when one turns to the Quebec situation, the link appears so tenuous as to be non-existent. At most, the crisis in the QFL could be interpreted by the CFL as an example of incompetence and the undue influence of CFL headquarters, both with nationalistic public-union backing. No one, however, made that charge openly. In reality, the crisis was much less important: it was only the result of an internal quarrel within the building-trades unions. In the 1982 schism within the CLC, therefore, the public/private question was not the sole cause of the schism at the federal level. It was not a necessary factor, because it was long established. It was, nevertheless, a necessary condition. At the provincial level, it appears to have been irrelevant.

The three cases discussed in this chapter furnish varied analyses of the issues of public and private sector relations within the union movement in Quebec. If these cases are typical, and it is my contention that they are, then no one analysis is correct. Tensions within organized labour along the lines exhibited by these cases constitute a problem, particularly in today's climate of private sector management pressure, reductions in public budgets, and unfavourable comparisons between the employees of the two sectors. Public sector unionism was, after all, the newest addition to the labour movement over the past two decades and was, therefore, bound to provoke reactions, both outside and inside organized labour. The next step in such research should be devoted to the effort made within the movement to practice effective internal-conflict resolution, and the following questions should be addressed: What relations did, in fact, develop between the two sectors, both within the CNTU after 1972 and within the CLC after 1982? How has the CSD coped with its public sector minority since 1972? And to what extent has 'unity through action' provided elements of a permanent solution?

Notes

1. E. Forsey, "The Movement Towards Labour Unity in Canada: History and Implications", p. 70.
2. G. Dion, "La CTCC et l'unité ouvrière canadienne", *Relations industrielles*; and E. Forsey, "The Movement Towards Labour Unity in Canada".
3. See Table 4-1 for clarification of the names of labour organizations used in this chapter.
4. For purposes of this chapter, 'public sector' will refer to activities often identified in Quebec as 'public' and 'parapublic' activities, that is, those linked most closely to the government, such as the provincial public service, as well as those more distant, such as Crown corporations. At one point, it was fashionable to refer to 'peripublic' activities to describe institutions such as the *Caisses populaires*. To simplify the terminology, however, I will deal with the first two under the general heading of 'public' and relegate the third to the private sector.
5. H.L.A. Hart and A.M. Honoré, *Causation in the Law*.

6. F. Harvey, *Le mouvement ouvrier au Québec*, p. 287; CSD, "Numéro spécial", *La base* (June 1982), p. 12.
7. SFPQ, *Procès-verbal de la sixième session du Syndicat des fonctionnaires provinciaux du Québec* (Québec: SFPQ, 1971).
8. CSD, *Procès-verbaux du congrès de fondation* (Québec: CSD, 1972), and the *Testament des 3 "D"*, contained in the same document, p. 78.
9. *Ibid.*, pp. 11–12, 76–81.
10. CSD (Comité provisoire de la nouvelle centrale), *Manifeste de la nouvelle centrale* (Québec: CSD, 26 May 1972), p. 7.
11. CSD, *Procès-verbaux* (1972), pp. 13, 84.
12. CSD, *Manifeste*, p. 1, and CSD, *Procès-verbaux* (1972), pp. 13, 84.
13. CSD, *Procès-verbaux* (1972), p. 85.
14. CNTU, *Rapport du comité de l'assiette fiscale*, $45^{\text{ième}}$ congrès de la CSN tenu à Québec (Montreal: CNTU, 1972), Annexe 7A, pp. 107–9.
15. CNTU, *Vivre à notre goût. Procès-verbal du* $46^{\text{ième}}$ *congrès de la CSN* (Montreal: CNTU, 1974), p. 9.
16. *Ibid.*, p. 12. See also, SFPQ, *Le journal SFPQ* 11 (August 1972), p. 10, "Extrait de la lettre du président Marcel Pépin aux militants de la CSN en janvier 1970".
17. CNTU, *Vivre à notre goût*, pp. 11–12.
18. CNTU, "Les 3D trompent les travailleurs: il est temps que les membres réaffirment leur autorité", *Le travail* 48 (July 1972).
19. SFPQ, *Procès-verbal du cinquième congrès* (Quebec: SFPQ, 1969), p. 44.
20. SFPQ, *Procès-verbal de la sixième session du Syndicat des fonctionnaires provinciaux du Québec* (Quebec: SFPQ, 1971), pp. 36–41.
21. *Ibid.*, p. 30, and SFPQ, *Le journal SFPQ* 10 (April 1971), p. 18.
22. SFPQ, *Le journal SFPQ* 11 (August 1972), p. 2.
23. *Ibid.*, p. 14.
24. *Ibid.*, p. 7.
25. They include such authors as Jean-Réal Cardin, André Déom, Gérard Dion, Yvon Guay, Jean Pellerin and Léo Roback.
26. They include François Demers, Dupoint and Tremblay, Henri Gagnon, Gabriel Gaudette, Jacques Hamel, Raymond Hudon, Carla Lipsig, Jacques Rouillard and Bernard Solasse. See especially, F. Delorme and D.Veilleux, *Les syndicats independants au Québec: un aperçu de leur situation*.
27. CSD, *Procès-verbal du premier congrès* (Montreal: CSD, 1973), p. 27.
28. CSD, *La base*, numéro spécial (June 1982), p. 12.
29. CSD, *Manifeste*, p. 7.
30. CSD, *Pour un changement radical des structures sociales au Québec:* 1^{er} *manifeste de la CSD*, édition spéciale de *La base* (8 May 1975), p. 33.

31. CSD, "L'enracinement d'une nouvelle culture syndicale", numéro spécial de *La base* (June 1982), p. 7.
32. See, for example, the brochure, Le comité des cent, *Pour un Québec socialiste : manifeste du mouvement pour un Québec socialiste, indépendant, démocratique et pour l'égalité entre les hommes et les femmes.*
33. L. Clermont-Laliberté, *Dix ans de pratiques syndicales: CEQ 1970–1980.*
34. *Ibid.*, Reference to resolutions 96, 97 and 99 of the 1972 Convention.
35. CNTU, *Vivre à notre goût. . .*, p. 192.
36. CEQ, *Unité et solidarité/l'unité syndicale*, 25ième congrès de la CEQ, p. 11.
37. C. Vaillancourt, "Charbonneau veut changer la formule du Front commun", *Le Soleil* (19 August 1976), p. A-1.
38. CEQ-CNTU, *Déclaration d'intention relative à l'unité syndicale* (Quebec-Montreal: CEQ-CNTU, 1977), pp. 15–21, 23–33.
39. *Ibid.*, p. 28.
40. CEQ, *Sur la voie de l'unité : propositions pour maintenant* (Quebec: CEQ, 1978), p. 7.
41. CEQ, *Donner un sens à notre action de masse. Propositions pour maintenant: discours du président* (Quebec: CEQ, 1978), pp. 40–41, and F. Roberge, "La fièvre électorale gagne la CEQ".
42. *Ibid.*, and M. Girard-Solomita, "Bien des membres en ont assez d'entendre un message à saveur marxiste — Robert Gaulin, candidat à la présidence de la CEQ". See also, F. Roberge, "La rivalité Charbonneau-Gaulin polarisera la discussion à la CEQ".
43. CEQ, *Décisions du 26ième congrès de la CEQ tenu à Montréal du 26 juin au 1er juillet 1978* (Sainte-Foy: Service des communication, CEQ, 1978), p. 1.
44. Delorme and Veilleux, *Les syndicats indépendants au Québec.*
45. CLC, *Summary of the Issues in the Dispute between the CLC and the Building Trades* (Ottawa: CLC, 1982), pp. 3–4.
46. Ministère du Travail, *Répertoire des organisations de travailleurs au Canada 1982* (Ottawa: Ministre des Approvisionnements et Services Canada, 1982).
47. CLC, *Summary of Issues*, p. 16; J.A. McCambly, *Remarks by James A. McCambly, President Canadian Federation of Labour*; J.B. Rose, *The Building Trades — Canadian Labour Congress Dispute.*
48. K.G. Rose, *Address by Chairman K.G. Rose to the Founding Convention of the Canadian Federation of Labour.*
49. *Ibid.*, p. 2, and Brian Christmas, "Labour Federation Launched", *Hamilton Spectator* (1 April 1982).
50. J.B. Rose, *The Building Trades*, pp. 2, 3 and 5.
51. K.G. Rose, *Address*, p. 3.

52. *Ibid.*

53. CFL, *Background and History: Building and Construction Trades Unions/CLC Dispute* (Ottawa: CFL, 1981), p. 3. Based on Department of Labour statistics.

54. CFL, *Position Papers Submitted to the Founding Convention of the Canadian Federation of Labour* (Ottawa: CFL, 1982), pp. 5, 9.

55. K.G. Rose, *Address*, pp. 5–10.

56. CFL, *Position Papers*, pp. 1–2.

57. *Ibid.*, p. 4.

58. CLC, *Summary of Issues*, p. 4.

59. *Ibid.*, p. 6.

60. *Ibid.*, pp. 6–8.

61. *Ibid.*, pp. 9–13. See also J. Bagnall, "Labour Giants Take CLC to the Edge".

62. CLC, *Summary of Issues*, p. 14.

63. See, for example, J. Bagnall, "New Labour Grouping Seeks to Make Things Work", and "New Labour Central Has Ottawa, CLC Stirring", *Financial Post* (10 April 1982).

64. See, for example, J. Deverell, "PM to Labour: Work with Us on Economy", *Toronto Star* (1 April 1982), and "Solidarity in Shreds as Two Unions Battle", Toronto Star (10 April 1982).

65. J.B. Rose, *The Building Trades.*

66. Hart and Honoré, *Causation in the Law.*

Bibliography

Bagnall, James. "Labour Giants Take CLC to the Edge". *Financial Post* (11 October 1980): 23–24.

Bagnall, James. "New Labour Grouping Seeks to Make Things Work". *Financial Post* (27 March 1982).

Canada. Ministère du Travail. *Répertoire des organisations de travailleurs au Canada, 1982*. Ottawa: Ministre des Approvisionnements et Services Canada, 1982.

Clermont-Laliberté, Louise. *Dix ans de practiques syndicales : CEQ 1970–1980*. Sainte-Foy : Service des communications, CEQ (1981) (édition spéciale de la revue, *Ligne directe*).

Le comité des cent. *Pour un Québec socialiste : manifeste du mouvement pour un Québec socialiste, indépendant, démocratique et pour l'égalité entre les hommes et les femmes*. Montréal : Mouvement socialiste, 1981.

Delorme, François and Veilleux, Diane. *Les syndicats independants au Québec : un aperçu de leur situation.* Québec : Centre de recherche et de statistiques sur le marché du travail, (1980).

Dion, Gérard. "La CTCC et l'unité ouvrière canadienne". *Relations industrielles* 12 (Nos. 1–2 1957) : 32–54.

Forsey, Eugene. "The Movement Towards Labour Unity in Canada: History and Implications". *Canadian Journal of Economics and Political Science* 24 (1958): 70–83.

Girard-Solomita, Monique. "Bien des membres en ont assez d'entendre un message à saveur marxiste — Robert Gaulin, candidat à la présidence de la CEQ". *Journal de Montréal* (15 June 1978): 13.

Hart, H.L.A. and Honoré, A.M. *Causation in the Law.* Oxford: Clarendon Press, 1962.

Harvey, Fernand. *Le mouvement ouvrier au Québec.* Montréal: Boréal Express 1980.

McCambly, James. *Remarks by James A. McCambly, President Canadian Federation of Labour.* Ottawa: CFL, 1982.

Roberge, Françoy. "La fièvre électoral gagne la CEQ". *Le Devoir* (27 June 1978): 3.

Roberge, Françoy. "La rivalité Charbonneau-Gaulin polarisera la discussion à la CEQ". *Le Devoir* (26 June 1978): 3.

Rose, J.B. *The Building Trades — Canadian Labour Congress Dispute.* Working Paper Series No. 193. Hamilton: McMaster University, Faculty of Business, 1982.

Rose, K.G. *Address by Chairman K.G. Rose to the Founding Convention of the Canadian Federation of Labour.* Ottawa: CFL, 1982.

Vaillancourt, Claude. "Charbonneau veut changer la formule du Front commun". *Le Soleil* (19 August 1976): A-1.

5: *Militancy in Public Sector Unions*

GENE SWIMMER

with the assistance of SALLY LUCE
and ROSEMARY NICHOLSEN

Gene Swimmer is Associate Professor, School of Public Administration, Carleton University.

Contents

Introduction 151
Global Indicators of Militancy 152
Survey Research 158
  Questionnaire and Sample 159
  Model Specification 161
  Empirical Results 163
  Results of Analysis 177
Conclusions 186
Acknowledgements 187
Notes 187
Appendix 193
Bibliography 194

Militancy in Public Sector Unions

Introduction

In 1980, 45 000 clerical employees went on strike against the government of Canada. The work stoppage was the largest in federal public sector history, and some employees, designated as "essential to the safety and security of the public", also joined the strike. This action constituted an illegal act. One year later, 10 000 hospital workers defied provincial legislation and went on strike against fifty hospitals across Ontario. Much has been written about the rising tide of militancy among public employees, often in the context of these two high-profile work stoppages.[1] Strike activity is the most important, though not the exclusive, measure of worker unrest. Other indicators include illegal or wildcat strikes, refusals to accept interest arbitration, interunion raiding and breakaways, the overuse of grievance procedures, and the unseating of long-time officials.[2]

The purpose of this chapter is twofold. First, global indicators of rank-and-file militancy will be compiled from previously published and unpublished sources, in order to determine whether public employee unrest has increased over the past decade in absolute terms and relative terms (that is, as compared to private sector employees). In the second part of the chapter, militancy is looked at from a micro perspective. To this end, non-professional office employees in three public sector jurisdictions were surveyed with regard to their attitudes towards militant action.

Global Indicators of Militancy

The most obvious indicator of rising militancy is strike activity. Table 5-1 presents work-stoppage statistics for the private and public sectors[3] since 1970; it also breaks down the data according to the stage at which the conflict arose: during negotiation of a first agreement, during renegotiation of an agreement, or during the term of an agreement. The number of strikes, the number of workers involved, and the person-days lost (the product of the length of the work stoppage and the number of workers involved) are reported for each type of dispute. Strike statistics always exhibit great variability, depending, in part, on the annual bargaining calendar. In addition, the introduction of the Anti-Inflation Board (AIB) probably reduced the value of the strikes that occurred during the period from 1976 to 1978. Nonetheless, it is possible to draw some conclusions about changes in relative strike propensity in the two sectors.[4]

Strikes for a first agreement have a special character in the private sector, since, in such situations, the union is fighting indirectly for recognition.[5] In the public sector, however, first-agreement strikes are rare because public employers would find it politically unpalatable to fight the existence of unions (as opposed to bargaining hard with an established union). From 1970 to 1981, there was an average of twelve first-agreement strikes per year in the public sector; these involved 1300 workers and accounted for the loss of 29000 person-days. By comparison, there was an average of 94 first-agreement strikes annually in the private sector, involving 5500 workers and the loss of 197000 person-days. In addition, the frequency of private sector work-stoppages has increased since 1978. If work-stoppage statistics were not disaggregated by source, estimates of public employee strike propensities would reflect a downward bias.

Looking exclusively at contract-renewal disputes, we find a generally steady increase in public sector work-stoppage indicators, while the figures for the private sector increase until 1976, and level off or decline thereafter. In the period from 1970 to 1975, there were 60 public sector stoppages annually (comprising 12 per cent of all contract-renewal stoppages), as compared to 170 strikes per year (comprising 24 per cent of all contract-renewal stoppages) in the post-AIB period, from 1979 to 1981. Except in 1972,[6] public sector strikes involved about 41000 employees (or 15 per cent of the total number of employees) and resulted in the loss of 629000 person-days (or 9 per cent of the total work time) per year, prior to 1976. The numbers in the post-controls period swelled, with 167000

Table 5-1: *Work Stoppages Disaggregated by Type and Sector*

Year	First Agreement						Renegotiation of Agreement						During Term of Agreement					
	Total		Workers Involved (1000s)		Person-Days (1000s)		Total		Workers Involved (1000s)		Person-Days (1000s)		Total		Workers Involved (1000s)		Person-Days (1000s)	
	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.	Pub.	Priv.
1970	12	77	1	5	12	164	40	295	32	174	470	5691	5	102	3	45	5	195
1971	10	78	2	4	34	141	49	295	45	114	303	2121	13	121	32	42	47	216
1972	12	54	1	3	10	86	56	167	487	167	3367	3941	11	128	4	44	4	302
1973	2	79	0	6	8	142	56	428	16	240	305	5124	17	136	40	47	52	130
1974	13	92	0	8	22	242	78	537	31	227	395	6772	73	402	75	248	367	1416
1975	18	107	3	9	23	429	145	626	90	238	1675	8058	54	208	30	134	110	575
1976	11	87	2	5	80	190	143	603	179	485	1363	8777	47	138	16	884[a]	60	1072
1977	17	81	2	4	71	122	101	406	35	99	547	2257	53	143	15	62	108	218
1978	14	65	1	3	18	162	125	608	68	196	933	5860	57	185	69	65	170	220
1979	6	135	1	8	27	261	152	563	199	182	1931	5202	36	150	15	58	73	330
1980	17	125	1	5	23	201	166	549	213	164	2878	5582	35	130	7	50	26	230
1981	16	148	1	6	17	224	192	478	89	169	2145	5974	46	127	12	56	50	157
Average 1970–81	12.3	94.0	1.3	5.5	28.8	197.0	108.6	462.9	123.7	204.6	1359.3	5446.6	37.3	164.2	26.5	144.6	89.3	421.8

Source: Department of Labour.

Note

a. Includes the 'day of protest' against wage controls.

workers (or 49 per cent) involved in strike activity and 2318000 person-days (or 29 per cent) lost annually in public sector disputes. In contrast, public sector union members represent 39 per cent of the total organized labour movement.[7] These statistics indicate an increased willingness of rank-and-file public sector union members to back up contract demands with strikes (and to withstand rare management lock-outs), although the absolute number of work-stoppages is still modest. These stoppages appear to be of relatively short duration, since the difference between the number of public/private-sector person-days lost is not as dramatic as the difference in the number of stoppages. The shorter duration may be a function of political pressures forcing management to comply with workers' demands or to legislate them back to work; *or* it could be that the glamour of a strike wears off quickly for public employees, many of whom are involved in strike action for the first time.

Table 5-1 also provides data on another indicator of militancy: participation in illegal work stoppages. Strikes or lock-outs during the contract term include most, but not all, such incidences. Strikes in response to contract disputes, where interest arbitration is legally required (such as the Ontario hospital strike in 1981), and strikes by 'designated' employees are illegal, but would appear as renegotiation work stoppages. Thus the data are biased downward. Public (and private) sector illegal strike activity increased during the early 1970s. By 1974 the public sector accounted for 73 work-stoppages (or 15 per cent of the total number of stoppages) during the life of the agreement, with 75000 workers (or 14 per cent of the work force) involved and 367000 person-days (or 21 per cent) lost. Since then, the number of public sector illegal strikes has declined in absolute terms, but has increased in relative terms, averaging approximately 25 per cent of the number of work stoppages, workers involved and person-days lost, from 1975 to 1981. There is some evidence of an increase in public sector illegal strike activity.

Another important indicator of unrest concerns the number of grievances accumulated during the terms of collective agreements. Grievance statistics are very sketchy, as they are usually not collected by unions at the national level or by outside agencies. Two major exceptions are grievances referred to adjudication in the federal and Ontario public service.[8] Data for the federal jurisdiction are presented in Table 5-2. The overall total and the number of union-specific subgroups have increased substantially. The total number of references increased almost seven times, from 439 in 1975-76 to 2955 in 1981-82. Grievances referred to adjudication by the Public Service Alliance of Canada (PSAC) had tripled from 90 to 335, even

Table 5-2: *Employee Grievances Referred to the Public Service Staff Relations Board for Adjudication*

	Number of Grievances					
Year	*PSAC*[a]	*CUPW*	*LCUC*	*PIPS*	*Other*	*Total*
1975–76	90[b]	—	—	—	—	439
1976–77	53	—	—	—	—	647
1977–78	132	—	—	—	—	591
1978–79	128	—	—	—	—	2350
1979–80	242	2358	39	46	68	2753
1980–81	353	583	149	13	73	1153
1981–82	1537[c]	1109	34	60	215	2955

Source: Public Service Staff Relations Board.

Notes

a. Abbreviations are as follows:
PSAC: Public Service Alliance of Canada;
CUPW: Canadian Union of Postal Workers;
LCUC: Letter Carriers Union of Canada;
PIPS: Professional Institute of the Public Service.

b. No breakdown for any group other than PSAC was possible before 1979–80.

c. 1347 grievances were directly related to the clerical workers' strike.

before the discipline cases from the clerical and regulatory workers' strike. That strike generated an additional 1347 references, bringing the total in 1981-82 to 1537.

The data for the Ontario Crown Employees Grievance Settlement Board, which began operations in 1976, though incomplete, generally confirm a dramatic rise in the use of grievance procedures. Eighty-four cases were heard by the Board in 1978-79 (up from 53 in 1977-78).[9] By April 1979, the backlog of cases had risen to 231, and 324 additional cases were received during the 1979-80 fiscal year.[10] During the next two fiscal years, another 1365 new grievances were submitted.[11]

The increase in grievances will undoubtedly have a negative effect on the parties involved. As the number of grievances builds up, and unions are unwilling, or politically unable, to drop them, pressure on union funding increases, as do time delays, and the frustrations felt by the rank and file escalate.[12] This development, in turn, can create a greater propensity to strike during the life and renegotiation of collective agreements. Not only do strikes cause grievances, but it may be that grievances cause new strikes.

Rank-and-file dissatisfaction with union leadership may result in raiding or breakaway movements, where members consider switching unions. Although public sector raiding is clearly another indicator of worker militancy, an increase in that activity can be explained, in part, by the changing pattern of union growth. With the dramatic increase in union membership during the 1970s, many public sector jurisdictions have now reached membership saturation.[13] As the pool of unorganized workers dries up, unions naturally look to other means of increasing their membership, such as raiding. Since provincial government unions and professional unions (for example, those of teachers and nurses) have few potential competitors, and since they are often granted statutory monopolies, they are generally insulated from this threat.

Table 5-3 summarizes inter-union rivalry in the federal public service, where it is not difficult to change certification. Since 1975, twelve applications to change bargaining agents have been made; seven were successful. A major target has been the Professional Institute of the Public Service (PIPS), the bargaining agent most resembling an employees' association (as distinguished from a trade union). In fact, the Canadian Union of Professional and Technical Employees (CUPTE) was established by a faction within PIPS. CUPTE has been the source of four applications against its former organization, two of which were successfully repelled. In the process, PIPS has become more militant, encouraging its bargaining units to forgo arbitration in favour of the right to strike.

Workers who are dissatisfied with their unions' ability to bargain collectively clearly have alternatives in the federal jurisdiction. Ironically, a threatened union has an incentive to settle a new collective agreement quickly in order to end the 'open season' for raiding,[14] which only exacerbates the situation. The federal jurisdiction also documents a decline in the acceptance of interest arbitration in favour of the right to strike. In 1974, unions in 82 federal bargaining units chose arbitration as the dispute-resolution process. These units amounted to 75 per cent of the bargaining units and 62 per cent of the total number of employees opting for arbitration.[15] By 1981, only 64 of the 115 units (or 59 per cent), representing 31 per cent of federal public service employees, retained arbitration.[16] Opting for the conciliation-strike route is a necessary, but not sufficient, condition for an increase in the number of strikes; many reasons have been given for switching from arbitration to concilia-

Table 5-3: *Attempted Interunion Raiding Activity: Federal Bargaining Units*

Year	*Applicant*	*Incumbent*	*Bargaining Unit*	*Size of Unit*[a]	*Outcome*
1975	ESSA[b]	PIPS	Economics, Sociology and Statistics	2043	Applicant
1976	PSAC	PIPS	Library Science	398	Applicant
	SGCT	PSAC	Administrative Support—National Film Board	226	Applicant
1977	SGCT	PSAC	Operational—National Film Board	77	Applicant
1978	CUPTE	PIPS	Translation	1076	Applicant
	CUPTE	PIPS	Aircraft Operations	418	Applicant
	CUPTE	PIPS	Veterinary Science	551	Incumbent
	SCAQ	CATCA	Air Traffic Controllers—Quebec	—	Incumbent
1979	CUPTE	PIPS	Nursing	1522	Incumbent
1981	CUPTE	PSAC	Radio Operations	1140	Applicant
1982	IBEW	PSAC	Operational—Northern Canada Power Commission	144	Incumbent
	PIPS	PSAC	Education	2922	Incumbent

Source: Public Service Staff Relations Board.

Notes

a. Estimated number of employees in 1980–81.

b. Abbreviations are as follows:

ESSA: Economists', Statisticians' and Sociologists' Association
PIPS: Professional Institute of the Public Service
PSAC: Public Service Alliance of Canada
SGCT: Syndicat général du cinéma et de la télévision
CUPTE: Canadian Union of Professional and Technical Employees
SCAQ: Syndicat des contrôleurs aériens du Québec
CATCA: Canadian Air Traffic Controllers Association
IBEW: International Brotherhood of Electrical Workers.

tion, some of which have nothing to do with a willingness to strike.[17] Therefore, this militancy indicator must be regarded with caution. Still, it should be remembered that the illegal strike by the Ontario hospital workers in 1981 was caused by hospital workers rejecting interest arbitration.[18]

No attempt has been made to investigate the turnover of union officials.[19] Still, the election of Pierre Samson, President of PSAC, is an excellent example of this phenomenon. In 1980 Samson, who was virtually unknown, narrowly defeated Bill Doherty, Executive Vice-President, for the vacated position of president. Although these elections are rarely decided on a single issue, dissatisfaction with the handling of the clerks' strike by the incumbent executives, combined with Samson's militant stance during that strike, was a major reason for Doherty's loss.[20] Similarly, in late 1983, Jeff Rose, president of a Toronto CUPE local and a relative newcomer to union politics, defeated the incumbent, National Secretary/Treasurer (and heir apparent) Kealey Cummings for the national presidency of the Canadian Union of Public Employees.

In general, global indicators provide substantial evidence of rising militancy during the 1970s. The remainder of this chapter concerns the public employee survey. With regard to this survey, it should be noted that, rather than selecting a general sample from all levels of public employees, it was decided at the outset that only data pertaining to administrative support or clerical workers would be collected.

Survey Research

With favourable legislation and relatively benign employers,[21] unions of clerical workers in the public sector have grown dramatically over the last two decades. None the less, until the federal clerks' strike, these workers had never been viewed as militant. Nonprofessional white-collar workers provide an interesting focal point for the survey participants because of related technological, demographic and social changes that could be sources of increased militancy. The revolution of microelectronics technology is irrevocably changing the nature of office work.[22] Do clerical workers turn to unions to ameliorate the impending changes in technology? In addition, in view of the generally stagnant economy and the final wave of the post-war baby boom entering the job market, better-educated and, perhaps, overqualified applicants are accepting nonprofessional office jobs. Recent entrants, frustrated with their lack of career advancement,[23] may be prime candidates to become union activists. Finally, the clerical labour force is predominantly female. As more women become permanently attached to the labour market, their involvement with unions should increase. To the extent that there exist demographic or discriminatory barriers to women's careers, female clerical workers may also use union activism to achieve personal goals.

Questionnaire and Sample

The questionnaire consists of three general sections: the first section asks for objective information, the second asks questions regarding attitudes, and the third contains questions about actual and hypothetical participation in union activities. The objective information includes personal characteristics — for example, sex, age and education — as well as employment experiences, such as length of service, level of income, and the impact of technological change. The questions about attitudes fall into five categories: union performance, attitudinal militancy, and job satisfaction measured on monetary, non-monetary and career-development dimensions. (See Table 5-7.)[24] The section on participation is divided into questions about non-strike activities, such as attending meetings and running for office, and strike activities, such as picketing and striking. (See Table 5-8.) The questionnaire was distributed to the unions of non-professional office workers in the Ottawa area who represented the federal, municipal and quasi-public sector jurisdictions. It was intended to include provincial government employees as well, but the Ontario Public Service Employees Union refused to co-operate. By limiting the sample to a specific city, response differences based on varying local economies were avoided. Since the three groups which agreed to participate differ in many ways, a short description of each is appropriate.

In Ottawa, the city union local, which is an affiliate of the Canadian Union of Public Employees (CUPE), bargains for about 1300 inside and outside workers. The local came into existence forty years ago as an independent employee association, which management voluntarily recognized as the bargaining agent for city employees. At the same time, the parties agreed to submit all outstanding issues to arbitration. Since then, a voluntary interest-arbitration clause has appeared in every collective agreement. There has never been a strike, and arbitration awards have been necessary about six times.[25] Although the city has the reputation of being a good employer, the frequency of potential grievances has none the less risen dramatically in the last five years, from the rate of approximately one per month to the rate of ten per week. A random sample, taken from the 485 clerical and office employees in the municipal sector (who comprise 35 per cent of the bargaining unit), generated 239 potential participants, to whose homes the bilingual questionnaire was mailed. These employees comprised the first of the three groups that participated in the study.

The second group of clerical workers was from the university union local, which negotiates under private sector legislation (specifically, the Ontario Labour Relations Act). The union was founded during the mid-1970s, a time which saw fiscal restraint imposed on universities in Ontario. The union affiliated with CUPE in 1979, following its first and only strike. That strike, which occurred during registration, lasted one week and ended when the union accepted management's pre-strike offer. The most recent negotiations, which ended one week before the questionnaire was distributed, involved a one-year settlement calling for a wage increase of an amount that was about average for that period.[26] Approximately half of the 600 employees in the bargaining unit were identified from their job titles as clerical workers. One hundred and ninety-four participants, identified from a 66 per cent random sample, received the questionnaire at their work addresses.

The final group of office workers surveyed was from the federal public service. A newly formed local of PSAC, which was created by the merger of two existing locals, agreed to participate in the survey. Because federal employee bargaining is organized along occupational lines, while the unions are organized on a departmental basis, the federal local includes clerical employees from three bargaining units: the clerical and regulatory unit, the data-processing unit, and the secretarial, stenographic and typing unit. The Public Service Staff Relations Act allows the bargaining agent to choose either the arbitration or the conciliation-strike route as its dispute-resolution process. Both the clerks and the data processors have switched to the strike route, while the secretarial group has stayed with arbitration. The clerical group is the only group that has ever gone on strike, and this strike, as mentioned above, occurred in 1980. As a result of federal wage controls, collective bargaining has been suspended for two years.[27] Because no up-to-date mailing list was available, the local agreed to distribute the questionnaire to approximately 250 administrative support employees through the activity of shop stewards and by means of internal mail. The distribution followed the government's announcement of wage controls.

Model Specification

In attempting to make the concept of union militancy operational, the empirical literature has taken two paths.[28] Some studies focus on workers' attitudes, while others view militancy in terms of union participation. Alutto and Belasco,[29] whose study is an example of the first type, use regression analysis[30] to 'explain' the variation in an index of attitudinal union militancy, which is generally defined as an average ranking (from strong disagreement to strong agreement) of a series of statements. Explanatory variables include demographics, job characteristics and measures of job satisfaction. Schutt,[31] whose study is typical of the second approach, attempts to 'explain' indices for actual and potential participation in strikes by using the same set of explanatory variables.[32]

Our definition of militancy, in terms both of attitude and of participation, is based on the following five indices:[33]

1. **Actual Participation, Non-strike**	Average proportion of six non-strike-related activities that the respondent actually participated in during the preceding five years.
2. **Actual Participation, Strike**	Average proportion of eleven strike-related activities that the respondent actually participated in during the preceding five years.
3. **Hypothetical Participation, Non-strike**	Average proportion of six non-strike-related activities that the respondent might participate in.
4. **Hypothetical Participation, Strike**	Average proportion of eleven strike-related activities that the respondent might participate in.
5. **Union Attitude**	Average score (on a four-point scale) for statements about union militancy.

The first two indices, which measure actual militant behaviour, are probably the most important. Separate regressions will be estimated to determine the impact of independent variables on each of these dependent variables.

Previous studies have demonstrated that there are links between certain personal factors and attitudinal militancy or participation. Although older workers and males are generally shown as being more militant unionists, there have been exceptions.[34] Given changing social mores, we expect that female workers and younger workers are at least as militant as male and older workers. There is no empirical consensus on the impact of education on militancy.[35] However, based on the view that the better-educated will face greater career frustration and may view union activity as a way of fulfilling personal aspirations, we expect a direct association between education and militancy.

One variable in this study which has not been included in previous studies is the proportion of family income generated by each respondent. This variable should approximate the employees' dependence upon their jobs. As job dependence increases, union commitment should also increase. We therefore expect to see a positive relationship between the proportion of income earned and the degree of union militancy. Other personal characteristics that are presumed to affect militancy include being related to people who are union members, holding union office, and being single. (In all three instances, the relationship is expected to be positive.)[36]

Job dissatisfaction is related to union-militancy measures in virtually all of the research. Using disaggregated measures, Schutt finds frustration over the lack of career-development possibilities to be the most important job-related predictor of militancy.[37] In order to measure job frustrations, six objective occupational factors and three subjective job-satisfaction indices have been included in this study. Presumably, employees who are affected by technological change and/or reorganization will become more interested in their unions. As the number of unsuccessful attempts at promotion or reclassification and the number of years at a job increase, 'positional frustration' increases, and employees should respond with increased union activism. Low-paid workers have the most to gain economically from union involvement. Finally, as subjective job satisfaction in terms of monetary, non-monetary or career factors[38] decreases, militancy should increase. Because objective and subjective measures of satisfaction are probably correlated, only a subset of these measures will actually be included in the regressions.[39] Unless previous participation left an extremely negative impression on the respondent (which is possible for those university employees who were involved in the unsuccessful strike), we should expect to find a positive association between past participation and current militancy.[40] The final explanatory variable is an index of subjective union performance. There is no reason to believe, a priori, that satisfaction with a union's performance in collective bargaining and contract administration will lead to more or less union participation. This relationship is further complicated by the fact that previous union participation affects a respondent's assessment of the union, as does a lack of previous participation.[41] Therefore, no prediction is made. The model is summarized in Table 5-4.

Table 5-4: *Expected Relationship Between Explanatory Variables and Militancy Indicators*

Independent Variable	*Expected Sign of Relationship*
1. Personal Characteristics	
a) Age	+
b) Sex (female = 1)	?
c) Union relatives (yes = 1)	+
d) Single (yes = 1)	+
e) Proportion of family income	+
f) Education	+
g) Union officer (yes = 1)	+
2. Occupational Factors	
a) Salary (income)	–
b) Technological change (yes = 1)	+
c) Reorganization (yes = 1)	+
d) Unsuccessful promotions and/or reclassifications	+
e) Years with present employer	+
f) Years in present job	+
g) Employer (city government, university, federal government)	?
3. Job Satisfaction	
a) Monetary index	–
b) Non-monetary index	–
c) Career development index	–
4. Other Factors	
a) Actual participation	+
b) Union performance index	?

Empirical Results

The overall response rate to the questionnaire was 25 per cent. Response rates for the city workers and for the university group were 31 and 44 per cent respectively (results which are similar to those obtained by other studies of the attitudes of public employees);[42] the response rate for federal employees, however, was poor, standing at approximately 10 per cent.[43] This is perhaps itself a statement about activism among federal employees. Nonetheless, federal responses from the federal jurisdiction have been included in the data analysis as a bench-mark. Regressions which exclude federal cases are presented in Appendix 5-1.[44]

In Tables 5-5 and 5-6, the objective personal and occupational characteristics of the respondents are summarized by jurisdiction. As expected, the respondents are predominantly female, with the proportion of female respondents ranging from 61 per cent in the city group to 89 per cent in the university group.[45] University respondents are significantly older (by about four years, on average) and are less likely to be engaged in part-time study. All groups report a mean education of thirteen years and households of two or three people, with the respondent contributing, on average, 45 per cent of the family income. Nevertheless, approximately 45 per cent of the respondents are single. About one-fifth of the respondents have spouses or parents who were union members. A significantly smaller percentage of the city local has held union office during the last five years (3 per cent, as compared to 15 and 20 per cent respectively, of the university and federal locals).

There are a number of significant differences among the responses to the category of group-occupation characteristics. University employees report much lower incomes than those of clerical workers in the other groups. The average reported disparity of more than $4000 is likely an overstatement, since university employees received a wage increase shortly after the survey was distributed, and some respondents may not have included this increase. Nonetheless, university clerical employees are the lowest paid.[46] With regard to length of service, city respondents report that they have worked for their current employers for approximately two years less than federal and university employees have worked for theirs, and that they have not faced job disruptions as often as have other groups. During the last five years, 80 per cent of the university and federal employees have been affected by technological change, as compared to only 60 per cent of the city employees. Similarly, only 40 per cent of city respondents have had their jobs reorganized or restructured, as compared to 50 and 75 per cent for the university and federal groups respectively. Over the same five-year period, respondents competed for approximately three promotions each and were successful approximately one-quarter of the time. Fewer upward reclassifications have been attempted (less than one per respondent), but those that were attempted were successful about one-third of the time. Differences in job types result from trying to compare three job-classification systems.

Table 5-5: *Descriptive Statistics for Personal Characteristics*

Variable	City		University		Federal	
	Mean or Proportion	*Standard Deviation*	*Mean or Proportion*	*Standard Deviation*	*Mean or Proportion*	*Standard Deviation*
Age	33.1*	8.67	37.7	13.7	33.5	10.2
Sex (female = 1)	0.61*	0.49	0.89	0.31	0.73	0.45
Marital status (single = 1)	0.34	0.48	0.44	0.50	0.55	0.51
Size of household	2.85	1.45	2.59	1.33	2.60	1.40
Education (years)	13.1	2.75	12.8	2.49	12.5	2.00
Per cent of family income[a]	44.2	24.7	39.0	24.9	48.3	29.3
Taking part-time education (yes = 1)	0.30*	0.46	0.12	0.32	0.21	0.42
Union officer (yes = 1)	0.03*	0.17	0.15	0.36	0.20	0.41
Union members						
Spouse (yes = 1)	0.22	0.42	0.14	0.35	0.10	0.31
Parents (yes = 1)	0.24	0.43	0.17	0.38	0.21	0.41
Number of Cases (maximum)	72		85		30	

Notes

a. Values for mean and standard deviation are interpolated from categories.

* Significant difference at 0.05 level.

Table 5-6: *Descriptive Statistics for Occupational Characteristics*

Variable	*City*		*University*		*Federal*	
	Mean or Proportion	*Standard Deviation*	*Mean or Proportion*	*Standard Deviation*	*Mean or Proportion*	*Standard Deviation*
Income[a]	$20972*	$16376	$3229	$20666	$2590	
Full-time permanent status (1 = yes)	0.92	0.28	0.96	0.19	0.83	0.38
Current job:						
Clerk/Typist	0.37	—	0.26	—	0.44	—
Secretary/Stenographer	0.35		0.49		0.52	
Word-processor operator	0.06		0.02		0.00	
Supervisor	0.22		0.23		0.04	
Service:						
Present employer (years)	5.67*	4.66	7.56	5.52	9.10	7.98
Present job (years)	3.24	3.11	4.52	5.28	3.13	2.18
Promotions:						
Attempted	3.19	3.00	2.42	2.19	3.00	2.68
Won	0.79	1.10	0.58	0.83	0.96	1.26
Reclassified upward:						
Attempted	0.75	1.14	0.83	1.26	1.00	1.54
Won	0.26	0.47	0.42	0.57	0.36	0.83

Affected by technological change (yes = 1)	0.61*	0.49	0.79	0.41	0.83	0.38
Affected by reorganization (yes = 1)	0.42*	0.50	0.52	0.50	0.77	0.43
Number of Cases (maximum)	72		85		30	

Notes:

a. Values for mean and standard deviation are interpolated from categories.

* Significant difference at the 0.05 level.

In Table 5-7, the responses to the twenty-two attitudinal statements are summarized. The average ordinal response and the proportion of respondents in agreement with each statement are presented. Because negative/non-militant statements have been scored inversely, and scores of '3' and '4' indicate agreement ('1' and '2' indicate disagreement), an average score of more than 2.5 indicates a disposition towards union militancy, or satisfaction with the job or parties. Similarly, the proportion listed for a negative statement represents the portion of respondents who disagree. Mean responses for each of the five attitudinal groupings are also reported.[47] Only the aggregate variables will be used in the regression analysis.

The members of all three groups reported that they are satisfied with their unions' performance. Over 75 per cent of the respondents agree that their union does a good job at the bargaining table and at handling grievances. (The ordinal scores average 2.9.) By comparison, there is much more divergence among the groups and among the responses to the five questions dealing with unions generally. The average militancy index shows that respondents for all three groups range from being neutral to being slightly negative about militancy. (The ordinal scores average 2.4, while the proportion agreeing with statements advocating union militancy is .47.) Of the three groups, city workers are significantly less in favour of all unions having the right to strike and are significantly less likely to avoid joining a union. About 65 per cent of the members of all the groups agree that workers do not benefit from strikes, and over 90 per cent prefer interest arbitration to job action. These results are particularly startling, given the usual arguments of public sector union leaders about the relative merits of strikes and arbitration.[48]

The next three subsets of statements concern job satisfaction, measured on monetary, non-monetary and career-development scales. University workers are significantly less satisfied with their salaries than are federal or municipal employees. This is hardly surprising, given the wide difference in annual incomes reported. By contrast, about 70 per cent of the municipal and federal workers believe that they are fairly paid. Workers in all three groups are, on balance, moderately satisfied with the non-monetary aspects of their jobs, although university employees are, relatively speaking, least satisfied. (The aggregate score ranges from 2.7 to 2.8 on the ordinal scale, while the proportion ranges from 0.6 to 0.7.) Over 80 per cent of all three groups consider that they are appreciated by their bosses and would not characterize their working conditions as poor. About 70 per cent also view their jobs as interesting and are committed to

Table 5-7: *Summary of Responses to Attitudinal Statements (Part I)*

Attitude	*City*		*University*		*Federal*	
	Mean Score	*Proportion Agree*	*Mean Score*	*Proportion Agree*	*Mean Score*	*Proportion Agree*
Union Performance						
a. My union does a good job during contract negotiations.	2.95	0.88	2.85	0.76	2.65	0.65
b. My union does a good job of handling grievances.	2.76*	0.74	3.00	0.85	3.31	0.87
Average[b]	2.88	0.84	2.86	0.78	2.85	0.74
Attitudinal Union Militancy						
d. All unions should have the legal right to strike.	1.96*	0.19**	2.44	0.47	2.52	0.45
f. Workers do not benefit from strikes.[a]	2.00	0.28	2.27	0.42	2.23	0.33
o. I would never join a union if I could avoid joining it.[a]	2.98*	0.88**	2.62	0.59	2.52	0.52
p. It is better to have bargaining disputes settled by arbitration than by strikes.[a]	1.62	0.05**	1.67	0.05	1.93	0.21

Table 5-7 (Cont'd): *Summary of Responses to Attitudinal Statements (Part II)*

Attitude	*City*		*University*		*Federal*	
	Mean Score	*Proportion Agree*	*Mean Score*	*Proportion Agree*	*Mean Score*	*Proportion Agree*
Attitudinal Union Militancy (Cont'd)						
q. Unions have been important in increasing the standard of living for workers and society in general.	3.10	0.92	3.04	0.89	3.30	0.96
Average^b	2.33	0.46	2.39	0.47	2.47	0.47
Job Satisfaction: Money						
g. I am better paid than most workers in my job category in the private sector.	2.75*	0.65**	1.70	0.07	2.80	0.76
i. Workers in my job category receive a fair wage for the work they do.	2.80*	0.73**	2.23	0.39	2.79	0.75
Average^b	2.77*	0.69**	2.06	0.30	2.79	0.76
Job Satisfaction: Non-monetary						
c. My boss appreciates the work I do.	3.14	0.89	3.00	0.85	3.36	0.96

e. Management at my place of work tries to resolve grievances before they go to adjudication or arbitration.	2.96*	0.87**	2.43	0.48	3.35	1.00
j. I work at my present job mainly out of interest.	2.57	0.61**	2.37	0.41	2.17	0.33
k. I work at my present job mainly out of financial need.[a,c]	2.10	0.28	2.04	0.23	1.97	0.27
l. I think of my work as a full-time career.	2.62	0.59	2.41	0.46	2.61	0.57
m. My working conditions are poor.[a]	3.03	0.80	2.95	0.79	2.93	0.79
r. I find my job very interesting.	2.85	0.72	2.73	0.67	2.64	0.61
s. I intend to work until I am eligible for retirement.	2.83	0.72	2.90	0.75	3.12	0.80
Average[b]	2.84	0.73	2.60	0.63	2.84	0.71
Job Satisfaction: Career Development						
h. I work for an equal opportunity employer.	3.07*	0.90**	2.66	0.66	2.88	0.77
n. My employer sometimes discriminates against women.[a]	3.08	0.78	2.78	0.67	2.70	0.59

Table 5-7 (Cont'd): *Summary of Responses to Attitudinal Statements (Part II)*

	City		*University*		*Federal*	
Attitude	*Mean Score*	*Proportion Agree*	*Mean Score*	*Proportion Agree*	*Mean Score*	*Proportion Agree*
t. There are many opportunities for career advancement for people in my job category.	2.23	0.34	1.96	0.23	1.96	0.25
u. It is very difficult to get jobs at my level reclassified to higher levels.[a]	1.82	0.19	1.66	0.13	1.70	0.19
v. At my place of work, management does very little to advance the careers of clerical workers.[a]	2.16	0.36	1.82	0.18	1.86	0.18
Average[b]	2.53*	0.54**	2.20	0.39	2.22	0.39

Notes

a. Reversed scoring (1 = strongly agree, 2 = agree, and so on, for mean score); (0 = agree, 1 = disagree for proportion).

b. Average score for individual respondent is calculated on the basis of those questions answered in the category.

c. This statement was not included in the average index because the responses were inconsistent with other measures, indicating that many respondents did not realize that the statement was reversed.

* Significant difference in means among groups at 0.05 level or better.

** Significant difference in proportions among groups at 0.05 level or better.

working until retirement. Finally, municipal and federal employees are significantly more satisfied with management's willingness to settle grievances at the early stages than are university employees.

With regard to the final subset, university and federal employees are significantly less satisfied with their chances for career advancement than are their municipal counterparts. None the less, municipal workers are less satisfied with this aspect (the ordinal score averages 2.5) than with monetary and other non-monetary aspects of work (on which the scores average 2.8).[49] Although employees generally disagree that management discriminates against women, federal and university employees are, again, less satisfied with management's performance in this regard. More than 75 per cent of workers in all groups agree that opportunities for advancement by reclassification or other means are severely limited.

Table 5-8 summarizes the extent of actual and hypothetical participation in non-strike and strike-related union activity. Beginning with non-strike activities, we see two clear differences. First, the proportion of respondents who actually participated in a specific activity is consistently smaller than the proportion that might participate in the future; that is, an average of 10 to 30 per cent reported actual participation, whereas an average of 55 to 65 per cent predicted hypothetical participation. This result is hardly surprising, given the nature of hypothetical questions. Secondly, actual membership involvement is significantly lower for four of the six types of activity among municipal employees than it is among other employees. On average, only 11 per cent of city respondents have participated in non-strike activities, compared with 26 per cent of the university and federal samples. The most common activity is the attending of union meetings (participation ranged from 35 to 80 per cent), and the least common is working for the election of sympathetic politicians (an activity in which fewer than 10 per cent of the respondents are involved). Despite differences in actual involvement, there are few significant differences among the three groups in terms of hypothetical participation. The most commonly mentioned potential activities are attendance at meetings and the use of the grievance procedure in formal and informal modes (reported by 75 to 80 per cent), while the least common activity is running for union office (reported by 25 to 30 per cent).

Participation in strikes follows the same general pattern of non-strike involvement. Again, the level of actual participation is lower than the level of hypothetical future participation, and despite the great differences among the groups in terms of actual strike participation, there are virtually no differences in hypothetical activ-

Table 5-8: *Summary of Responses About Union Participation*

	Actual Participation[a]			Hypothetical Participation		
Activity	*City*	*University*	*Federal*	*City*	*University*	*Federal*
Nonstrike						
a. Attending general meetings of the union.	.34*	.83	.48	.87	.87	.72
b. Running for union offices.	.04*	.14	.23	.26	.29	.31
c. Working for the election of provincial or federal officials known to be sympathetic to the problems of the clerical worker.	.09	.08	.08	.55	.43	.54
d. Using the grievance procedure to settle disputes with your employer.	.06*	.23	.11	.84	.77	.85
e. Asking for the union's help in settling a dispute with your supervisor.	.12	.16	.22	.88**	.72	.81
f. Participating in public demonstrations (other than picketing) with other union supporters.	.03*	.10	.33	.46	.38	.44
Average Participation (nonstrike)	.11*	.27	.26	.64	.58	.64

Strike-Related						
a. Going out on a legal strike against your current employer.	.01*	.60	.55	.44	.51	.59
b. Picketing your place of work.	.00*	.43	.45	.47	.42	.59
c. Preparing leaflets on strike issues to give to union members or the public	.00*	.14	.17	.36	.47	.48
d. Picketing employer locations other than your place of work.	.00*	.08	.41	.24	.23	.41
e. Using physical force to stop others from crossing the picket line.	.00*	.06	.10	.03	.03	.07
f. Damaging the employer's property.	.00	.03	.00	.01	.01	.07
g. Voting in favour of strike action.	.00*	.42	.45	.39	.53	.55
h. Striking in sympathy for members of other unions or union locals.	.01	.07	.00	.19**	.34	.41
i. Refusing to cross picket lines of other unions at your place of work.	.00*	.12	.07	.43	.48	.55
j. Going out on an illegal strike against your current employer.	.00*	.03	.14	.09	.12	.21

Table 5-8 (cont'd): *Summary of Responses About Union Participation*

Activity	*Actual Participation*[a]			*Hypothetical Participation*		
	City	*University*	*Federal*	*City*	*University*	*Federal*
Strike-Related (cont'd)						
k. Performing office work at strike headquarters.	.00*	.20	.07	.41	.45	.52
Average Participation (strike)	.00*	.21	.21	.28	.33	.39

Notes

a. Participation during the last five years.

* Significant difference for actual participation at the .05 level or better.

** Significant difference for hypothetical participation at the .05 level or better.

ity. Because the municipality has never gone out on strike, it is obvious that the level of involvement of municipal workers in the sample is zero in every case. Among other groups, going out on legal strike is the most frequent actual activity (with 55 to 60 per cent participating). About half of the respondents from the three locals would consider striking in the future. This contrasts with previously reported attitudes about the value of strikes. Taken together, these results imply that although respondents believe that arbitration is generally a better way to resolve disputes, their specific union-management relationship may force the consideration of strike action in the future. Other common areas of involvement are voting in favour of a strike and picketing, with 45 per cent of the respondents participating in these activities. The least common activities, both actual and hypothetical, are damaging property and using physical force to stop picket lines from being crossed (activities in which only 0 to 10 per cent of the respondents have been involved). The most common hypothetical activities are striking legally, picketing at work, voting for a strike, and refusing to cross picket lines (reported by 50 to 60 per cent).

Results of Analysis

The correlations between pairs of the five militancy indicators to be used as dependent variables are presented in Table 5-9. All correlation coefficients are extremely significant. The correlation between *actual* participation in strike and non-strike activities is larger (R = .56) than their respective correlations with hypothetical participation (.42 and .37). By contrast, the two hypothetical participation and union-attitudinal measures have correlations of .51 to .68, much higher than the correlations between actual participation and attitudinal militancy, which are only .37. This pattern is consistent with the view that the five indicators measure militancy on two basic dimensions: behaviour and attitudes.

Table 5-10 lists the simple correlations between the independent variables and the five militancy indicators. Personal and occupational characteristics which are significantly associated with a dependent variable will subsequently be included in the regression equation for that indicator. Even these simple correlations provide some evidence about the previously stated hypotheses. Surprisingly, most of the personal characteristics are unimportant in explaining militancy. For example, having relatives (either spouses or parents) in the union is virtually independent of all militancy variables. Apparent-

Table 5-9: *Correlations Between Pairs of Union Militancy Indicators*

Militancy Indicator	*Actual Participation Nonstrike*	*Actual Participation Strike*	*Hypothetical Participation Nonstrike*	*Hypothetical Participation Strike*
Actual Participation — Nonstrike	1.000[a]			
Actual Participation — Strike	.561	1.000		
Hypothetical Participation — Nonstrike	.365	.194	1.000	
Hypothetical Participation — Strike	.426	.419	.632	1.000
Union Attitudes	.365	.368	.505	.680

Notes

a. All coefficients are significant at the .05 level or better.

Table 5-10: *Correlations Between Independent Variables and Militancy Indicators*

Independent Variable	Militancy Indicators				
	Actual Participation: Non-strike	*Actual Participation: Strike*[a]	*Hypothetical Participation: Non-strike*	*Hypothetical Participation: Strike*	*Union Attitude*
Age	0.126	0.067	−0.102	−0.191**	−0.174*
Sex (female = 1)	0.042	−0.183*	−0.028	0.104	0.025
Marital status (single = 1)	0.070	0.113	0.101	0.148*	0.095
Size of household	−0.097	−0.134	−0.100	−0.142*	−0.066
Education	0.017	0.092	0.099	0.099	0.067
Percent of family income	0.136*	0.077	0.101	0.107	0.026
Part-time education (yes = 1)	0.142*	0.252**	0.141*	0.124	0.017
Union spouse (yes = 1)	0.052	0.013	0.063	−0.022	0.031
Union parent (yes = 1)	−0.004	−0.048	0.086	−0.024	0.034
Union officer (yes = 1)	0.495**	0.320**	0.169*	0.310**	0.378**
Income	−0.061	0.202*	0.084	−0.080	−0.116
Full-time permanent employee status (yes = 1)	0.146*	0.161*	−0.035	−0.022	−0.030
Service – present employer	0.188**	0.122	0.036	−0.060	−0.059
Service – present job	0.253**	0.272**	−0.079	0.002	0.012

Table 5-10 (Cont'd): *Correlations Between Independent Variables and Militancy Indicators*

Independent Variable	*Militancy Indicators* *Actual Participation: Non-strike*	*Actual Participation: Strike*[a]	*Hypothetical Participation: Non-strike*	*Hypothetical Participation: Strike*	*Union Attitude*
Unsuccessful promotion attempts	0.127*	0.040	0.052	0.075	−0.015
Unsuccessful upward reclassifications	−0.003	0.005	−0.095	−0.111	−0.037
Affected by technological change (yes = 1)	0.246**	0.094	0.147*	0.147*	−0.002
Affected by reorganization (yes = 1)	0.310**	0.194*	0.102	0.175*	0.141*
Job satisfaction – monetary	−0.325**	−0.246**	−0.166*	−0.212**	−0.235**
Job satisfaction – nonmonetary	−0.251**	−0.155	−0.166*		
					0.252**
Union performance	0.235**	0.214*	0.220**	0.248**	0.383**

Note:

a. Non-municipal employees.

* Significant difference from zero at the 0.05 level.

** Significant difference at the 0.01 level.

ly, union participation for these groups is not based on class ideology that is passed on through the family. The same is practically true for the variables of sex and the number of years of schooling, except that males are significantly more likely to have participated in strikes during the past five years. Though the level of education attained is independent of militancy, respondents who are currently engaged in part-time study tend to score on behavioural and attitudinal scales as more militant. Younger workers express more militant attitudes than older workers, but have not actually participated to a greater degree than the older workers. As expected, all of the indicators show union officers to be significantly more militant than other union members. Finally, married employees, those with larger households, and those contributing less to their families' total incomes tend to be less militant, although the correlations are seldom significant.

The most important objective occupational factors are the effects of technological change or reorganizations. Seven of the ten correlations between these job disruptions and militancy indicators are significantly positive. Other objective variables are not consistently related to greater militancy. For instance, full-time-employment status and length of service with an employer and in a specific job are directly associated with actual participation, but not with future participation or attitudinal militancy.[50] Income is significantly related only to greater participation in strikes, and unsuccessful promotions and reclassifications are, in general, unrelated to militancy indicators. By contrast, the three subjective measures of job satisfaction relate significantly to all militancy measures, with career satisfaction usually the most strongly correlated. Less-satisfied workers have participated more in the past, would participate more in the future, and express more pro-union attitudes. Finally, the subjective assessment of the union's performance is directly related to all types of militancy: workers who are satisfied with their union become involved and/or union involvement leads to a more positive assessment of the organization's performance.

Regression estimates for the five militancy indicators are presented in Tables 5-11 and 5-12. Three regression equations are estimated for each dependent militancy variable. First, all independent variables that have significant simple correlations with the dependent variables are included.[51] To reduce multicollinearity,[52] a second specification is estimated, excluding those independent variables which do not have a substantial association with the dependent variable (where the T value is less than 1.25).[53] The third specification differs from the second only in that the

Table 5-11: *Regression Estimates for Actual Participation in Strike and Non-strike Activities*

Independent Variables	*Standardization Regression Coefficients of the Independent Variables*					
	Actual Non-strike = d.v.			*Actual Strike = d.v.*[b]		
Sex	—	—	—	−0.159*	−0.139	−0.098
Per cent of family income	0.015	—	—	—	—	—
Part-time education	0.036	—	—	0.094	—	—
Union officer	0.408***	0.406***	0.373***	0.144	0.218**	0.186*
Full-time permanent employee status	0.016	—	—	0.039	—	—
Income	—	—	—	0.217*	0.198*	0.208*
University employer	−0.078[a]	0.024[a]	−0.034[a]	0.035	0.089	0.050
Municipal employer	0.018[a]	−0.069[a]	−0.123[a]	—	—	—
Service – present employer	0.046	—	—	—	—	—
Service – present job	0.163**	0.182***	0.192***	0.255***	0.263***	0.258***
Unsuccessful promotion attempts	0.016	—	—	—	—	—
Affected by technological change	0.107	0.142**	0.123*	—	—	—
Affected by reorganization	0.160**	0.150**	0.114*	0.042	—	—
Job satisfaction – monetary	−0.001	—	—	−0.116	—	—

Job satisfaction – non-monetary	−0.172**	−0.151**	−0.169***	—	—	—
Job satisfaction – career development	−0.124	−0.168**	−0.150**	−0.155	−0.191**	−0.174*
Union performance	—	—	0.105	—	—	0.095
Adj. R^2	0.424	0.445	0.441	0.233	0.216	0.192
Number of cases	147	166	148	99	106	98

Notes

a. T-test not applicable; significance level based on F-test.

b. Non-municipal employees.

* Significant difference at the 0.10 level for a two-tail test.

** Significant difference at the 0.05 level.

*** Significant difference at the 0.01 level.

d.v. = dependent variable.

subjective union-performance index is added as an additional independent variable. Because this variable is endogenous, the regression estimates in this last specification must be viewed with caution.[54]

Table 5-11 presents the results for actual participation in union activities. Only observations from the university or federal groups are included in the strike-participation equation because the municipal employees have never gone on strike. An important result of the regressions is the significant inverse relationship between satisfaction with career development and actual participation in non-strike *and* strike activities. By contrast, satisfaction with monetary aspects of the job is unrelated to activism, and satisfaction with non-monetary aspects is associated only with non-strike participation, holding other variables constant.

The objective employment factors that are significantly associated with activism also point to the link between career frustration and militancy. As the respondent's length of service in his or her present job increases, actual participation in all union activities also increases. In addition, workers affected by a reorganization or by technology are significantly more involved with union non-strike activities. Finally, high-paid employees are more likely to have participated in strikes than are low-paid employees; this suggests that dissatisfaction with monetary aspects of the job is not the cause of worker involvement.

In general, personal characteristics are unimportant in explaining behaviour, although male employees are more likely than female employees to have been active in strikes. Age, family composition and education do not matter. The remaining significant result borders on the tautological: that respondents who held union positions for any period of time during the past five years have participated in more strike and non-strike activities during those years than the average union member.

In Table 5-12, the regressions for hypothetical participation in non-strike and strike activities and for attitudinal militancy are summarized. These regressions contain actual participation indices as independent variables.[55] Again, subjective measures of job dissatisfaction are important in explaining militancy, although career frustration does not play a role. Dissatisfaction with other non-monetary aspects of the job is consistently associated with all three militancy indices, while dissatisfaction with monetary aspects is related to anticipated greater future participation in non-strike activities and to union attitudes. By contrast, no objective occupational variables are related to militancy. The sole personal characteristic

Table 5-12: *Regression Estimates for Hypothetical Participation and Attitudinal Union Militancy*[a]

Independent Variable	*Standardization Regression Coefficients of the Independent Variables*								
	Hypothetical Non-strike = d.v.			*Hypothetical Strike = d.v.*			*Union Attitude = d.v.*		
Age	—	—	—	0.187***	–0.181**	–0.206***	–0.207***	–0.178**	–0.195***
Marital status	—	—	—	–0.079	—	—	—	—	—
Size of household	—	—	—	–0.102	–0.083	–0.099	—	—	—
Part-time education	–0.002	—	—	—	—	—	—	—	—
Union officer	–0.019	—	—	0.178**	0.173**	0.104	0.251***	0.302***	0.230***
University employer	–0.186[a]***	–0.180[a]***	–0.238[a]***	–0.085[a]	–0.086[a]	–0.088[a]	–0.063[a]*	–0.072[a]*	–0.099[a]
Municipal employer	0.173[a]***	0.180[a]***	0.065[a]***	0.101[a]	0.087[a]	0.065[a]	0.134[a]*	0.126[a]*	0.043[a]
Affected by technological change	0.100	0.099	0.121	0.065	—	—	—	—	—
Affected by reorganization	—	—	—	0.017	—	—	0.004	—	—
Job satisfaction – monetary	–0.138	–0.145*	–0.098	–0.109	–0.108	0.078	–0.120	–0.137*	–0.127
Job satisfaction – non-monetary	–0.122	–0.122*	–0.136*	–0.165**	–0.159**	–0.170**	–0.096	–0.130*	–0.111
Job satisfaction – career development	–0.021	—	—	–0.007	—	—	–0.045	—	—
Actual participation – non-strike	0.351***	0.348***	0.275***	—	—	—	0.106	—	—
Actual participation – strike	—	—	—	0.359***	0.357***	0.361***	0.235***	0.284***	0.221**
Union performance	—	—	0.131*	—	—	0.185**	—	—	0.309**
Adjusted R^2	0.181	0.196	0.173	0.271	0.259	0.286	0.273	0.281	0.338
Number of cases	165	167	148	152	162	143	155	162	143

Notes

a. T-test not applicable; significance level based on F-test.

* Significant difference at the 0.10 level for a two-tail test.

** Significant difference at the 0.05 level.

*** Significant difference at the 0.01 level.

d.v. = dependent variable.

with explanatory power is age. Younger workers express significantly more militant union attitudes and are more willing to consider striking in the future. This result is contrary to those in previous studies and may be indicative of a new breed of public employee. Once again, union officers appear to be more militant than the average union member.

The impact of previous participation on future union involvement and pro-union attitudes is clear. *Ceteris paribus*, the greater an employee's actual participation, the greater the employee's willingness to participate in the future, and the more pro-union the employee's attitudes become. This is particularly important, given the many negative aspects of the clerks' and university strikes. Finally, those employees who express more satisfaction with their union's performance show significantly more militant attitudes and a greater willingness to participate in future union activities.

Conclusions

Are public employees becoming more militant? The answer is probably affirmative. Certainly, global indicators demonstrate increased militancy in terms of strikes, grievances and raiding, but survey results are equivocal. If our respondents represent the attitudes of non-professional white-collar workers, they are still far from radical in their views. The overwhelming majority express doubts about the effectiveness of strikes as a dispute-resolution process. Still, more than half of the respondents from the university and the federal jurisdiction have gone out on strike and have picketed their work sites during the last five years, and half of the members of all three groups would consider striking or picketing in the future. In addition, respondents are generally positive about other aspects of union membership. They are willing to attend union meetings — those meetings, at least, that are deemed important — and more than 75 per cent are prepared to seek union assistance in settling disputes on the job.

Although generalizations about militancy which are made on the basis of average responses are extremely problematic, inferences about the relationship of militancy to other variables are on firmer ground. The most important result of the survey research concerns career-development possibilities and union involvement. As workers become dissatisfied with career prospects and find themselves 'stuck' in their present jobs, actual participation in strike and non-strike union activities increases. Presumably, career frustration not only contributes to the tendency to join unions, but union involvement provides employees who have few career options with an attractive opportunity for personal (or professional) fulfilment. With continued government restraint and with more workers believing they have 'nowhere to go' — a lesson that blue-collar workers learned long ago — militancy among public sector employees will undoubtedly increase during the 1980s. Finally, personal characteristics are, in general, weak predictors of union attitudes and behaviour. However, there is evidence that younger employees exhibit more, *not less*, militant attitudes. Thus, as younger workers replace retiring public employees, militancy may increase. In sum, public employees may still be 'the sleeping giant' of the labour movement. There are, however, indications that the giant is beginning to wake up.

Acknowledgements

This research began as two separate projects. Following their development of the questionnaire, Ms. Luce and Ms. Nicholsen withdrew from the project, due to new employment commitments. I would like to express my gratitude to them and to the graduate students who assisted in various stages of the project. I must also thank those unions and their members who agreed to participate in the survey research. Finally, thanks go to the Department of Labour and the Public Service Staff Relations Board for providing unpublished data.

Gene Swimmer

Notes

1. For example, see J. Deverell, "The Ontario Hospital Dispute 1980–81".
2. This list is based upon indicators mentioned by J.H.G. Crispo and H.W. Arthurs, "Industrial Unrest in Canada: A Diagnosis of Recent Experience". pp. 243–47.
3. The Department of Labour's definition of the public sector is quite broad, and includes employees from federal, provincial and municipal administration; power, gas and water distribution; health services; education; and telephone systems.

4. See D.A. Smith, "Strikes in the Canadian Public Sector", in Chapter 6 of this volume, for an econometric study of the determinants of public sector work stoppages.

5. For a discussion of the relationship of first-agreement strikes to certification, see D.D. Carter and J.W. Woon, *Union Recognition in Canada*.

6. The extremely high degree of public sector-worker involvement and the large number of person-days lost in 1972 resulted from the strike by the Common Front of Quebec public employees. See G. Hébert, "Public Sector Bargaining in Quebec: A Case of Hypercentralization", in Chapter 7 of this volume, for a discussion of public sector industrial relations in Quebec.

7. See J. Rose, "Growth Patterns of Public Sector Unions", in Chapter 3 of this volume, for a discussion of public sector union growth.

8. The data are available for these two jurisdictions because permanent, rather than *ad hoc*, grievance-arbitration panels are used. See K. Swinton, "Grievance Arbitration in the Public Sector", in Chapter 10 of this work, for a detailed analysis of rights arbitration in the public sector.

9. Ontario Civil Service Commission, *1977–78 Annual Report*, p. 8; *1978–79 Annual Report*, p. 24.

10. Ontario Civil Service Commission, *1980–81 Annual Report*, p. 27.

11. Ontario Civil Service Commission, *1980–81 Annual Report*, p. 38, and *1981–82 Annual Report*, p. 38.

12. As of May 1982, the Public Service Staff Relations Board had a backlog of about 3300 cases, including 1600 from the federal post office before it became a Crown corporation; see B. Hill, "Gov't Rid of Post Office, But Wound Still to Be Healed".

13. With the exception of the Canadian Union of Public Employees, public employees' unions have kept relatively stable memberships since the mid-1970s. In the federal jurisdiction, the membership of PSAC and PIPS declined by 3 per cent and 12 per cent, respectively, between 1976 and 1981; see Rose, "Growth Patterns of Public Sector Unions", in Chapter 3 of this volume.

14. Individuals or rival unions may attempt decertification of an existing union only during the last two months of an existing contract or until a new agreement is signed. Thus, the more quickly a contract settlement is reached, the shorter the raiding campaign will be.

15. Public Service Staff Relations Board, *Ninth Annual Report*, pp. 102–10.

16. Public Service Staff Relations Board, *Fourteenth Annual Report*, pp. 75–82.

17. See L.W.C.S. Barnes and L.A. Kelly, *Interest Arbitration in the Federal Public Service of Canada*; G. Saunders, *Interest Arbitration and Wage Inflation in the Federal Public Service*; J.C. Anderson, "Arbitration in the Federal Public Service".

18. See Deverell, "The Ontario Hospital Dispute 1980–81".
19. G.N. Chaison and J.B. Rose, "Turner Among Presidents of Canadian National Unions", pp. 202–4, found that a substantial proportion of union-president turnover is not politically motivated. Thus, the value of turnover statistics as a measure of rank-and-file unrest is dubious.
20. See B. Hill, "Untested Militant Heads PSAC".
21. Bank employees facing substantial employer opposition have not been nearly as successful in organizing unions; see A. Ponak and L.F. Moore, "Canadian Bank Unionism: Perspectives and Issues".
22. See H. Menzies, *Women and the Chip: Case Studies of the Effects of Informatics on Employment in Canada*, for a discussion of the impact of microelectronic technology on white-collar work.
23. See N.S. Morgan, *Nowhere to Go? Possible Consequences of the Demographic Imbalance in Decision-Making Groups in the Federal Public Service.*
24. Attitudinal statements require an answer on a four-point scale, as follows: 'strongly agree' (4), 'agree' (3), 'disagree' (2), 'strongly disagree' (1), with 'don't know' or 'no opinion' treated as missing. Most, but not all, statements are phrased positively. Negative statements are scored inversely. A copy of the questionnaire is available from the author.
25. The last contract was supposed to expire at the end of 1982. It has been extended an additional year, with the 5 per cent wage increase allowed by provincial wage control legislation (Ontario Bill 179). The control program was announced two months after the completion of the survey.
26. Their contract will also be extended for one year, with only a 5 per cent wage increase, because of provincial wage controls.
27. See L. Panitch and D. Swartz, "From Free Collective Bargaining to Permanent Exceptionalism: The Economic Crisis and the Transformation of Industrial Relations in Canada", in Chapter 12 of this work, for a discussion of federal and provincial wage-control programs.
28. This section deals exclusively with empirical studies of public sector-employee militancy.
29. See J.A. Alutto and J.A. Belasco, "Determinants of Attitudinal Militancy Among Nurses and Teachers"; see also R.L. Smith and A.H. Hopkins, "Public Employee Attitudes towards Unions", who provide another example of this approach.
30. Some studies use an equivalent statistical procedure, such as multiple classification analysis.
31. See R.K. Schutt, "Models of Militancy: Support for Strikes and Work Actions Among Public Employees". Other examples of this approach appear in J.C. Anderson, "Local Union Participation: A Re-Examination"; W.S. Fox and M.H. Wince, "The Structure and Deter-

minants of Occupational Militancy Among Public School Teachers"; N. Nicholson, G. Ursell and J. Lubbock, "Membership Participation in a White-Collar Union". Anderson and Nicholson *et al.*, use an index of actual participation in attending meetings, voting, running for office and filing grievances as the dependent variable. Fox and Wince construct measures based on both strike and non-strike participation.

32. All four studies cited above also include worker attitudes toward unions as an additional explanatory variable. Regression analysis requires that all explanatory (or independent) variables be unaffected by the dependent variable. For example, age may affect the extent of union participation, but participation cannot affect age. Explicitly or implicitly, all the union-participation studies assume that demographic and job characteristics first determine militant attitudes, and that together these forces then determine union participation. This assumption is dubious. Not only do union attitudes affect participation, but it can be argued that union participation itself changes one's attitudes toward the union. The two-way causation requires a simultaneous equations model, estimated by two-stage least squares. See J. Johnston, *Econometric Methods*, pp. 231–74, for a discussion of simultaneous equations.

33. See Tables 5–7 and 5–8 for the specific statements.

34. Alutto and Belasco, "Determinants of Attitudinal Militancy", Nicholson *et al.*, "Membership Participation"; Fox and Wince, "The Structure and Determinants of Militancy". Anderson, "Local Union Participation", the author of the only Canadian study, found no relationship between sex and participation. Schutt, "Models of Militancy", found that younger workers were *more* militant.

35. Anderson, "Local Union Participation", found an inverse relationship between education and participation, while Nicholson, *et al.*, "Membership Participation", found a direct relationship.

36. Anderson, "Local Union Participation", found that union officers and married employees participate more. Nicholson *et al.*, "Membership Participation", found a direct relationship between the union orientation of the employees' parents and employer militancy.

37. See Schutt, "Models of Militancy", p. 419.

38. In addition to demographic and job characteristics, we treat three indices of subjective job-satisfaction (namely, monetary, non-monetary and career development) as predetermined; that is, those attitudes are assumed to have been formed before attitudinal militancy and union participation occur. The three variables are defined as the average scores (on a four-point scale) on a series of statements, consisting of two statements on monetary job satisfaction, seven statements on non-monetary job satisfaction, and five statements on career prospects. (See Table 5-7.)

39. Independent variables will be selected for the regressions on the basis of significant correlations with their respective dependent variables.

40. Regressions for hypothetical participation and attitudinal militancy can include actual participation as independent variables because previous participation is unaffected by future participation and/or current attitudes. Schutt, "Models of Militancy", found a significant positive relationship between actual and hypothetical union activity.

41. Because there is a two-way causal relationship between union performance and union participation, regression estimates may be biased. Results for this variable must be viewed cautiously; see note 32. Schutt, "Models of Militancy", found a significant, positive association between union performance and strike participation, but W. Glick, P. Mirwis and D. Harder, "Union Satisfaction and Participation", found that perceived union effectiveness was independent of a willingness to participate.

42. Nicholsen *et al.*, "Membership Participation", report a response rate of about 35 per cent; Fox and Wince, "The Structure and Determinants of Militancy", report a response rate of 44 per cent; and Glick *et al.*, "Union Satisfaction and Participation", report a response rate of 21 per cent. Some studies have had significantly higher response rates. Schutt, "Models of Militancy"; Alutto and Belasco, "Determinants of Attitudinal Militancy"; and Smith and Hopkins, "Public Employee Attitudes Toward Unions", all report better than a 60 per cent response rate, but these studies concentrated on professional public employees, who may be more disposed to complete questionnaires.

43. Originally, twenty-one federal employees responded. A subsequent mailing to the homes of sixty-seven employees (whose addresses were available) generated another nine responses.

44. The regression results turn out to be very similar, whether or not federal employees are included.

45. This represents a slight over-response by women. Males constitute 45 and 18 per cent of the city and university clerical populations, respectively. We have no breakdown by sex for the administrative support employees in the federal union local.

46. Many clerical jobs with the city and federal governments require bilingual personnel, while university jobs are unilingual, requiring only English. Part of the wage difference may be a premium for being bilingual. None the less, the university's base rate for a clerk typist is approximately 7 per cent lower than the city's.

47. Individual respondent scores on an aggregate attitude are the averages of those questions answered. Missing data are excluded from the aggregate scores.

48. In the federal jurisdiction, the PSAC advocates that all of its bargaining units select the conciliation-strike route, rather than arbitration.

49. Municipal employees are significantly less satisfied with their career prospects than they are with both monetary and other, non-monetary aspects of their job.

50. To a certain extent, this result is tautological, as employees with fewer than five years have had a shorter time to participate.

51. A pair of employer dummy variables are also included in each specification to capture any uncontrolled differences between jurisdictions.

52. Multicollinearity occurs when independent variables are correlated with one another. It has the effect of decreasing the statistical significance of all estimated coefficients.

53. Specifications using subsets of reasonably significant variables were also estimates: that is, only personal characteristics and only objective characteristics. These results were virtually identical in direction and significance with the estimates presented in Tables 5-11 and 5-12.

54. See note 41.

55. Since actual participation precedes future participation, classical regression assumptions are not violated.

Appendix 5-1: *Regression Estimates for Militancy Indicators Excluding Federal Cases: Simplified Specifications*

Independent Variable	*Standardized Regression Coefficients of the Independent Variables*				
	Actual Participation Non-strike = d.v.	*Actual Participation Strike*[a] *= d.v.*	*Hypothetical Participation Non-strike = d.v.*	*Hypothetical Participation Strike = d.v.*	*Union Attitude = d.v.*
Age	—	—	—	−0.203**	−0.178**
Sex	—	−0.090	—	—	—
Size of household	—	—	—	−0.099	—
Union officer (yes = 1)	0.353***	0.072	—	0.153*	0.280***
Income	—	0.205*	—	—	—
University employer	0.122*	—	0.378***	−0.147*	−0.228**
Service – present job	0.179***	0.294***	—	—	—
Affected by technological change (yes = 1)	0.173***	—	0.146*	—	—
Affected by reorganization (yes = 1)	0.131*	—	—	—	—
Job satisfaction: monetary	—	—	−0.200**	−0.106	−0.204**
Job satisfaction: non-monetary	−0.141**	—	−0.115	−0.134*	−0.055
Job satisfaction: career development	−0.216***	−0.263***	—	—	—
Actual Participation: non-strike	—	—	0.269***	—	—
Actual Participation: strike	—	—	—	0.304***	0.286***
Adjusted R^2	0.465	0.215	0.189	0.193	0.253
Number of cases	137	76	139	136	136

Notes

a. University employees only.

* Significant difference from zero at the 0.10 level for a two-tail test.

** Significant difference at the 0.05 level.

***Significant difference at the 0.01 level.

d.v. = dependent variable

Bibliography

Alutto, Joseph A. and Belasco, James A. "Determinants of Attitudinal Militancy Among Nurses and Teachers". *Industrial and Labor Relations Review* 27 (No. 2 1974): 216–27.

Anderson, John C. "Arbitration in the Federal Public Service" in *Interest Arbitration: Measuring Justice in Employment*", edited by Joseph M. Weiler, pp. 43–77. Toronto: Carswell, 1981.

Anderson, John C. "Local Union Participation: A Re-Examination". *Industrial Relations* 18 (No. 1 1979): 18–31.

Barnes, L.W.C.S. and Kelly, L.A. *Interest Arbitration in the Federal Public Service of Canada*. Research Series, No. 31. Kingston: Queen's University, Industrial Relations Centre, 1975.

Carter, D.D. and Woon, J.W. *Union Recognition in Canada*. Ottawa: Minister of Supply and Services Canada, 1981.

Chaison, Gary N. and Rose, Joseph, B. "Turnover Among Presidents of Canadian National Unions". *Industrial Relations* 16 (No. 2 1977): 199–204.

Crispo, John H.G. and Arthurs, H.W. "Industrial Unrest in Canada: A Diagnosis of Recent Experience". *Relations Industrielles* 23 (No. 2 1968): 237–62.

Deverell, John. "The Ontario Hospital Dispute 1980–81". *Studies in Political Economy*, No. 9 (Fall 1982): 179–90.

Fox, William, S. and Wince, Michael H. "The Structure and Determinants of Occupational Militancy Among Public School Teachers". *Industrial and Labor Relations Review* 30 (No. 1 1976): 47–58.

Glick, William; Mirvis, Philip; and Harder, Diane. "Union Satisfaction and Participation". *Industrial Relations* 16 (No. 2 1977): 145–51.

Hill, Bert. "Govt. Rid of Post Office, but Wound Still to be Healed". *The Ottawa Citizen* (4 May 1982).

Hill, Bert. "New PSAC Head Wants to Open Windows". *The Ottawa Citizen* (24 April 1982).

Hill, Bert. "Untested Militant Heads PSAC". *The Ottawa Citizen* (23 April 1982).

Johnston, John. *Econometric Methods*. New York: McGraw-Hill, 1963.

Menzies, Heather. *Women and the Chip: Case Studies of the Effects of Informatics on Employment in Canada*. Montreal: The Institute for Research on Public Policy, 1981.

Morgan, Nicole, S. *Nowhere to Go? Possible Consequences of the Demographic Imbalance in Decision-Making Groups of the Federal Public Service.* Montreal: The Institute for Research on Public Policy, 1981.

Nicholson, Nigel; Ursell, Gill; and Lubbock, Jackie. "Membership Participation in a White Collar Union". *Industrial Relations* 20 (No. 2 1981): 162–78.

Ontario Civil Service Commission. *1977–78 Annual Report.* Toronto: Queen's Printer, 1978.

Ontario Civil Service Commission. *1978–79 Annual Report.* Toronto: Queen's Printer, 1979.

Ontario Civil Service Commission. *1979–80 Annual Report.* Toronto: Queen's Printer, 1980.

Ontario Civil Service Commission. *1980–81 Annual Report.* Toronto: Queen's Printer, 1981.

Ontario Civil Service Commission. *1981–82 Annual Report.* Toronto: Queen's Printer, 1982.

Ponak, Allen and Moore, Larry F. "Canadian Bank Unionism: Perspectives and Issues". *Relations Industrielles* 36 (No. 1 1981): 3–34.

Public Service Staff Relations Board. *Eighth Annual Report.* Ottawa: Information Canada, 1976.

Public Service Staff Relations Board. *Ninth Annual Report.* Ottawa: Information Canada, 1977.

Public Service Staff Relations Board. *Fourteenth Annual Report.* Ottawa: Minister of Supply and Services Canada, 1981.

Saunders, George. *Interest Arbitration and Wage Inflation in the Federal Public Service.* Centre for the Study of Inflation and Productivity, Discussion Paper No. 162. Economic Council of Canada, 1980.

Schutt, Russell K. "Models of Militancy: Support for Strikes and Work Actions Among Public Employees". *Industrial and Labor Relations Review* 55 (No. 3 1982): 406–22.

Smith, Russell and Hopkins, Anne H. "Public Employee Attitudes Toward Unions". *Industrial and Labor Relations Review* 32 (No. 4 1979): 484–495.

6: *Strikes in the Canadian Public Sector*

DOUGLAS A. SMITH

Douglas A. Smith is Associate Professor, Department of Economics at Carleton University.

Contents

Introduction 201
Strikes in the Public Sector 202
  Public and Private Sector Strikes 203
Models of Strike Activity 208
  Inflation and Strikes 210
  Labour-Market Demand 211
  The Impact of Controls 212
  Expirations and Trends 212
Empirical Specification 212
  Variable Definitions 213
  Regression Results 213
  Number of Strikes 215
  Time Loss Resulting from Strikes 216
  Workers Involved in Strike Activity 216
  Renegotiation Strikes 216
Strikes in Quebec 217
Conclusions 221
Appendix: Data and Sources 223
Acknowledgements 224
Notes 224
Bibliography 226

Strikes in the Canadian Public Sector

Introduction

During the decade of the 1970s, labour relations in the Canadian public sector came under increasing scrutiny. Much of this scrutiny is related to the 1967 acquisition, by employees in the federal public sector, of the right to strike, under the terms of the Public Service Staff Relations Act (PSSRA). However, as later sections of this chapter indicate, strike activity by public employees has been increasingly concentrated in the education and health sectors, which do not fall under the jurisdiction of this Act.

This chapter deals with a number of aspects of strike activity in the Canadian public sector. The fundamental issue addressed relates to differences between the determinants of strikes in the public and private sectors. A number of different approaches to analysing the determinants of strike activity are possible. The approach employed in this chapter is to regard a strike as the result of calculations, by bargainers on both sides of the dispute, of the advantages and disadvantages of striking at different times. The empirical analysis attempts to quantify how fluctuations in variables, such as the unemployment rate or the rate of inflation, affect these calculations and, consequently, the probability of strikes.

The organization of this chapter is as follows. In the first section, the increased level of concern over public sector labour relations and strike activity is documented. To analyse strike activity, a model of strike causation is necessary, and the second, and central, section of this chapter presents the model employed. The next section provides the results of tests done on this model in order to explain differences in private and public sector strike determinants; and in the final section, a summary of the chapter is provided, and some implications of the empirical results are considered.

Strikes in the Public Sector

Public sector labour relations have been the subject of considerable recent debate and concern. There are a variety of reasons underlying this concern, including the view of Courchene[1] and others who have argued that the public sector played a wage-leadership role in the inflation of the 1970s and early 1980s. In addition, and of direct relevance to this chapter, there is a perception, expressed by Christensen[2] and others, that labour disputes in the public sector have contributed disproportionately to the unenviable record of time lost through strike activity, a record which Canada acquired during the 1970s.

A central element in the criticism of public sector labour relations and strike activity is the apparent extent to which a labour-relations model that was developed for the private sector has been applied to the public sector. Those who criticize the existing conciliation-strike route in the federal public service, such as Courchene and Christensen, have argued that the fundamental problem with public sector labour relations lies in the differences in the constraints faced by public and private sector employers. Specifically, public sector employers, who do not face the competitive profit constraint of the private sector, are assumed to be less resistant to the demands of trade unions which have the right to strike.

Courchene and other critics of the existing system do not argue that there are no similarities between the public and private sectors. In fact, Courchene[3] specifically refers to the existence of a political constraint on the public sector employer, since larger wage increases must be associated with some combination of a reduction in spending on other programs, higher taxes and a larger deficit. However, this constraint on wage increases is, according to Courchene, less powerful than that which operates in the private sector. The result of this point of view is that an upward bias may be imparted to public sector wages under the existing system if the public employer prefers to accept the political costs of higher wages, instead of the greater political costs associated with strikes and the disruption of public services. However, in public sector strikes, this cost may be offset by the fact that revenue will not be interrupted as it is in the private sector. Since few public services are funded through user charges, tax revenues continue even when the service for which some portion of the tax payments were intended is not provided.

Interest in the industrial relations system of the public sector has been stimulated by the expansion of formal union activities in that sector. Municipal government employees who bargain under provincial labour-relations Acts have undergone relatively little change, but employees of the federal and provincial governments have opted increasingly for formal union status. The unions involved have, in general, replaced various public service associations which did not hold legal collective bargaining rights. The result of these changes has been a transformation of the public sector from one which, in the early 1960s, had a relatively low unionization ratio to one which is now the most highly unionized sector of the Canadian economy.[4]

Public and Private Sector Strikes

There exist a variety of dimensions of strike activity, only some of which are analysed in this chapter. The fundamental issue discussed here is whether the public or the private sector is relatively more strike prone. The answer to this question is complicated by two factors: a higher unionization ratio in the public sector, and ambiguity about the appropriate strike measure. The first factor means that the public sector contains a higher percentage of employees who, potentially, could engage in strike activity. The second factor is a recognition of the different dimensions of strikes. Time lost as a result of strikes is the product of their frequency, size and duration. The published data present a number of choices as to which measure to select as indicators of relative strike activity. In addition to these factors, there may be an inherent difficulty in comparing public and private sector strike activity. The ultimate objective of such comparisons is to establish the relative costs associated with strikes. Yet many activities are undertaken by the public sector precisely because they are regarded as being different from activities that are engaged in solely within the private sector. Even if we found that the public and private sectors experienced equal levels of strike activity, it is possible that the economic costs associated with public sector strikes could still exceed the cost of private sector strikes.

The simplest measure of strike activity, and the one that has been the most amenable to econometric explanation, is frequency. Table 6-1 indicates strike frequency in the public and private sectors from 1972 to 1981. The numbers in this table exhibit a slight upward

Table 6-1: *Strikes in the Private and Public Sectors in Canada: 1972 to 1981*

Year	*Public*		*Private*	
	Number	*% of Total*	*Number*	*% of Total*
1972	79	13.2	519	86.8
1973	76	10.5	648	89.5
1974	167	13.7	1 051	86.3
1975	218	18.6	951	81.4
1976	202	19.5	836	80.5
1977	171	21.2	634	78.8
1978	196	18.5	861	81.5
1979	195	18.6	854	81.4
1980	218	21.2	809	78.8
1981	260	24.8	788	75.2

Source: Department of Labour, *Strikes and Lockouts in Canada*, and unpublished tabulations.

trend in the proportion of public sector strikes, although the increase is not large. Since public employees constitute approximately 25 per cent of the Canadian labour force and approximately 45 per cent of union members, it is clear that in terms of frequency the public sector is less strike prone than is the private sector. This finding is consistent with the work of Ponak,[5] but not with the view expressed by Christensen,[6] although the major point in Christensen's analysis was the relative increase in public sector strikes. In interpreting the statistics regarding relative strike propensities, it should be noted that the designation of some employees as 'essential', as well as other legislative constraints, means that not all unionized public sector employees are able to strike legally. This is particularly true in the case of police and fire-fighters; each of these groups has the right to strike in only three of the ten provinces. In some provinces, all public servants must proceed to arbitration, rather than use the strike route, while in others, teachers and hospital workers are, in some cases, denied the right to strike.

As was indicated above, frequency alone may not be a sufficient indicator of strike activity. Time lost as a result of strikes is the other commonly used measure of this activity. Data on the number of workdays lost as a result of public and private strikes during the period from 1972 to 1981 are presented in Table 6-2. In two of the ten years covered by the data, the public sector's share of lost work-

Table 6-2: *Workdays Lost as a Result of Strikes and Lock-outs in Canada, 1972 to 1981*

Year	*Federal Public Service*[a]	*Other Public Sector*[b]	*Total Public Sector*	*Total Private Sector*	*Total Canada*	*Federal Public Service as % of Total Canada*	*Total Public Sector as % of Total Canada*
1972	49 310	3 338 990	3 338 300	4 365 230	7 753 530	0.6	43.7
1973	3 690	361 990	365 680	5 410 400	5 776 080	0.1	6.4
1974	156 040	539 970	696 010	8 525 880	9 221 890	1.6	7.4
1975	867 420	1 087 210	1 954 630	8 954 180	10 908 810	8.0	18.0
1976	12 490	1 509 180	1 521 670	10 088 220	11 609 890	0.1	13.0
1977	16 590	715 650	732 240	2 575 640	3 307 880	0.5	22.1
1978	164 760	938 240	1 103 000	6 289 820	7 392 820	2.2	14.9
1979	22 850	1 874 030	1 999 010	5 835 220	7 834 230	0.3	24.2
1980	332 990	2 632 940	2 965 930	6 043 380	9 009 310	3.7	32.9
1981	664 330	1 549 860	2 214 190	6 664 300	8 878 490	7.5	24.9

Source: Department of Labour, unpublished tabulations.

Notes

a. Covered under the Public Service Staff Relations Act.

b. Includes provincial and municipal administration: power, gas and water distribution: education: health services: and telephone systems.

days exceeds the public sector's share of total employment. However, when the figures in the final column are computed by using data for the entire period between 1972 and 1981, the average share of the public sector in the total number of workdays lost is just over 20 per cent, a figure which is below the employment share of the public sector. The data also highlight the limited contribution of the federal public service to the total number of workdays lost in the public sector. On an average, over the course of the period, the federal public service accounted for only 2.8 per cent of the total workdays lost and only 13.5 per cent of the time lost in the public sector. Bird has estimated that federal government employment constitutes 15.2 per cent of all public sector employment.[7]

Another important dimension of public sector strike activity — the sectoral distribution — is illustrated in Table 6-3. Although the data indicate substantial variability in the sectoral distribution of strikes, the increased importance of strikes in the education and health sectors is clear. In 1980 over 61 per cent of public sector strikes occurred in these two sectors, compared with just over 30 per cent in 1972.

Table 6-3: *The Sectoral Distribution of Public Sector Strikes (percentage of annual public sector total)*

Year	*Public Administration*	*Post Office*	*Poser, Gas, Water, Telephone*	*Education*	*Health*
1972	48.1	6.3	15.2	15.2	15.2
1973	30.3	13.2	18.4	22.4	15.8
1974	35.9	1.8	21.0	22.8	18.6
1975	36.7	2.8	10.6	28.4	21.6
1976	28.7	4.0	16.3	23.3	27.7
1977	38.6	16.4	7.6	15.2	22.2
1978	28.1	8.7	8.2	24.0	31.1
1979	38.5	4.6	16.4	14.9	25.6
1980	23.9	4.1	10.6	23.9	37.6

Source: Department of Labour, unpublished tabulations.

It is also possible to disaggregate Canadian strike activity in the public sector by region. These data are shown in Table 6-4 for the five major Canadian regions, and they indicate that a substantial portion of public sector strikes in Canada occurs in Quebec. One commentator[8] has suggested that the bargaining process in Quebec involves difficulties, not shared by other Canadian jurisdictions,

Table 6-4: *The Regional Distribution of Public Sector Strikes in Canada: 1972 to 1980*

	Atlantic		*Quebec*		*Ontario*		*Prairies*		*B.C.*		*Canada*
Year	*N*	*%*	*N*	*%*	*N*	*%*	*N*	*%*	*N*	*%*	*Total*
1972	15	19.0	27	34.2	18	22.8	2	2.5	17	21.5	79
1973	19	25.0	9	11.8	22	28.9	7	9.2	18	23.7	76
1974	33	19.8	44	26.3	32	19.2	24	14.4	22	13.2	167
1975	40	18.3	63	28.9	39	17.9	44	20.2	25	11.5	218
1976	25	12.4	62	30.7	54	26.7	36	17.8	25	12.4	202
1977	35	20.5	70	40.9	33	19.3	24	14.0	7	4.1	171
1978	22	11.2	66	33.4	37	18.9	42	21.4	24	12.2	196
1979	29	14.9	58	29.7	54	27.7	28	14.4	23	11.8	195
1980	21	9.6	68	31.2	46	21.1	58	26.6	24	11.0	218
Total	239	15.7	467	30.7	335	22.0	265	17.4	185	12.2	1 522

Source: Department of Labour, unpublished tabulations.

Note: Columns do not add up because the Yukon and the Northwest Territories do not enter the standard regional definitions.

which explain the higher incidence of strike activity. For this reason, a section of this chapter deals explicitly with the determinants of public sector strikes in Quebec.

Models of Strike Activity

There exists a substantial empirical and theoretical literature on the determinants of strikes. The recent empirical literature has been based, in large part, on the strike model provided by Ashenfelter and Johnson, in which union wage demands are held to be functions of a series of economic and political variables.[9] However, as Kaufman and others have pointed out, this model is extremely restrictive, since it depicts firms not as bargaining, but as simply deciding whether to accept or reject the wage demand of the union.[10]

From the point of view of this chapter, the most serious limitation of the existing models of strikes is that these models have been constructed to explain strike activity in the private, rather than the public, sector. Although bargaining relationships in the public and private sectors have important similarities, differences exist, particularly in terms of the employers. Private sector strike models are based on the profit-maximizing responses of employers dealing with the wage demands of unions. Although the public sector employer can, in general, be assumed to be maximizing something, such as the probability of re-election, this variation in the constraint may lead to differences in bargaining behaviour and strike outcomes.

In terms of the workers in the two sectors, the differences are less severe. It is reasonable to argue that expected real wages in subsequent contract periods are the principal factor in the utility functions of both private and public sector union members. The bargaining behaviour of public sector unions may differ from that of unions in the private sector if employment-security arrangements in the public sector make unions in that sector less concerned with potential lay-offs.

Although existing models of strike activity have been derived for the private, rather than the public, sector, there is a substantial literature on wage determination in the public sector, a process which has implications for the volume of strike activity. In this literature, the economic constraint of the private sector is replaced by a political constraint, through which the utility of the public sector employer is maximized.[11] The level of utility is related to the electoral prospects of the government, which are based, in turn, on the quantity of public goods provided. The explicit price of these goods, in the case of user charges, or the implicit price for tax-supported services negatively affects utility for a given level of public services. Strikes, therefore, reduce this level of utility by reducing the quantity of public services, although this may be somewhat offset if tax revenues which would have gone to striking workers in the form of pay or other benefits can be used for other purposes.

Models of public sector labour demand and of wage determination have been tested empirically, through the use of data for a number of countries. Ashenfelter and Ehrenberg estimated that labour demand in the public sector exhibits about one-half of the wage elasticity of the private sector.[12] This implies that an increase in a given public sector wage costs a public sector union, in terms of reduced employment, approximately half of what the same increase costs a union in the private sector. This is consistent with the related empirical work of Gunderson, who found, in a comparison of Canadian workers in the public and private sectors, that a positive wage premium existed for public employees.[13]

In another Canadian study, Cousineau and Lacroix found that wages in the public sector in Canada are more responsive to inflation and less responsive to labour-market conditions than are wages in the private sector.[14] This relationship leads to the obvious hypothesis that the same set of differences would be observed when the focus of analysis was transferred from wage determination to strike activity. In fact, although the literature on public sector wage determination produces insights into the determinants of public sector strikes, few clear hypotheses emerge. This reflects the difficulty economists have had in modelling public sector wages. The following quotation illustrates why it is difficult to derive hypotheses about public sector strikes from public sector wage models:

> Of crucial importance in the theoretical determinants of wages is the fact that [the] profit constraint of the private sector is replaced by a political constraint in the public sector and this political constraint can affect public sector wages in an undetermined fashion. Hence, the necessity to appeal to the empirical evidence for results.[15]

In the absence of a satisfactory model of either public sector wages or strikes, the approach employed in this chapter is to assess the extent to which private sector models of strike activity can be applied to the public sector. In analysing the empirical results, substantial attention is given to the differences between the results of the private and public sector strikes. The private sector strike model that is tested is derived from the work of Kaufman.[16] The purpose of the model is to demonstrate why strikes occur and how exogenous economic variables, such as the rate of inflation, affect the probability of strikes. In this model, both bargaining parties have utility functions which include their expected real wages. In the case of the government employer, the utility attached to the wage settlement falls to zero when the negotiated wage rises to a threshold level established by a government which is maximizing the probability of re-election. This is similar to the utility function of firms in the American model, in which utility falls to zero at the negotiated wage that corresponds to the shut-down point of the firm.

From the utility functions of the two sides and from the anticipated concession rates, it is possible to derive the initial demand of each side and the rate at which these demands are altered as negotiations progress and the strike deadline approaches.[17] The occurrence of strikes in this model is related to the convergence rates of union demands and employers' offers over time. The rationale for including specific variables as determinants of strikes in this model is the impact that these variables have on increasing the gap between union demands and employers' offers.

Inflation and Strikes

In this chapter, a somewhat different approach is taken to estimating the impact of inflation on strike activity. The standard approach, which is common to most empirical strike models, deals with actual inflation over the duration of the previous collective agreement. The existence of long-term contracts[18] makes it unlikely that expiring agreements will have fully reflected actual inflation, even in a period during which inflation reduced the duration of contracts. If, for example, the contract wage rate predicted a rate of inflation lower than the actual rate, then the shared rents from the unionized employment relationship will have been disproportionately biased in favour of the employer. In models of the type discussed in this chapter, this phenomenon will generate pressure for catch-up wage settlements, will increase the gap between wage demands and wage offers, and will increase the probability of a strike. The hypothesis, therefore, is that higher past rates of actual inflation lead to a greater number of strikes.

As an alternative to the traditional type of inflation variable, this study explicitly incorporates a measure of unanticipated inflation. According to the 'rational expectations' hypothesis, only unanticipated inflation will have an impact on real economic decisions such as strikes. In the context of this chapter, then, the 'rational expectations' hypothesis implies that the real gap between union demands and management offers should be unaffected by anticipated inflation, and that if inflation over the preceding contract period was not correctly anticipated when the contract was signed, inflation will be associated with a greater number of strikes. Unanticipated inflation is constructed, therefore, as the difference between the actual rate of inflation that took place over the course of the previous contract period and the rate that was expected — based on information available at that time — when the contract was signed. A direct (positive) relationship is expected between the unanticipated component of inflation and wages, and it is intended to capture what are often referred to as 'catch-up' effects in wage bargaining. This variable is used as an alternative to rates of change in nominal wages, which have been employed by Cousineau and Lacroix, Kaufman,[19] and others, as catch-up variables.

Labour-Market Demand

A variety of other variables has been included in econometric strike equations, although it is, in general, difficult to relate them to a specific bargaining model. Lipsky and Farber argue that "one of the clearest results of industrial relations research is that strikes follow the business cycle, or, in other words, that strikes and unemployment are inversely correlated."[20] The usual rationale for the negative relationship between strikes and unemployment is that at lower rates of unemployment, alternative jobs are more readily available for striking workers. This lowers the relative cost of striking and is said to increase the relative bargaining power of unions. However, a lower unemployment rate will, at the same time, increase the relative cost of strikes for employers, thereby offsetting the upward shift in the schedule of union demands. These effects will cancel each other out because they produce offsetting shifts in the concession curves of union and management negotiators. It is not clear, however, that they are of equal magnitude; therefore, the expected value that will be assigned to the unemployment variable is indeterminate.

Cousineau and Lacroix,[21] as well as others, have argued that the effect of the unemployment rate on strike activity will be indeterminate with regard to strikes in the private sector. This contention appears also to hold for the public sector. If lower unemployment implies higher incomes and higher tax revenues, then higher wage demands in periods of low unemployment will be offset somewhat by a greater willingness on the part of the public employer to pay.

The Impact of Controls

The empirical analysis in this chapter covers the period from the first quarter of 1972 to the fourth quarter of 1980. This includes substantially all of the period during which widespread concerns about public sector labour relations were expressed, as well as the interval during which the Anti-Inflation Board (AIB) operated. In the empirical tests reported in the following section, a dummy variable is included; it takes on a value of one in the period during which the AIB operated (that is, from the fourth quarter of 1975 to the end of the third quarter of 1978) and zero otherwise.

Expirations and Trends

A major weakness of most of the empirical literature in the tradition of Ashenfelter and Johnson has been the absence of data on contract expirations. The use of quarterly dummies is a partial response to this problem, but it is clearly desirable to control directly for the number of potential strike situations. This is done in this chapter through the use of Labour Canada data on contract expirations in the public and private sectors. In addition, after controlling for other independent variables, it is important to determine whether the time-series data contain a trend component. In the regressions which are reported in the following section, a simple linear trend variable is included to test for trend differences between the public and private sectors.

Empirical Specification

This section presents the results of testing the model of strike activity described above. The data employed are unpublished quarterly data from Department of Labour on the number of strikes, the number of workdays lost as a result of strikes, and the number of workers involved in strikes in the public and private sectors in the years 1972 to 1980, inclusive.

The regression model used to estimate the differences between private and public sector determinants of strikes is described as follows:

$$\ell n\, S_t = \beta_0 + \beta_1\, \ell n\, EXP_t + \beta_2\, AIB + \beta_3\, T + \beta_4 \sum_{i=0}^{3} a_i\, U_{t-i} + \beta_5\, \dot{P}_c^{ua} + e_t$$

The expected signs of the coefficients are $\beta_1>0$, $\beta_2<0$, $\beta_3\gtrless0$, $\beta_4\gtrless0$, and $\beta_5>0$.

Variable Definitions[22]

$\ell n\, S_t$: This variable is the natural logarithm of the number of strikes (S1) and, alternatively, of the total time lost as a result of strikes (S2) or the number of workers involved in strikes (S3). In the regression results, separate results are reported for public (PUB) and private (PRIV) sector strikes. The six dependent variables are, therefore, ℓnS1PUB, ℓnS1PRIV, ℓnS2PUB, ℓnS2PRIV, ℓnS3PUB and ℓnS3PRIV.

EXP_t : The natural logarithm of contract expirations per quarter in the relevant sector.

AIB : A dummy variable, which takes the value of 1 during the period in which the AIB operated (from the fourth quarter of 1975 through the third quarter of 1978) and 0 otherwise.

T : A linear trend variable.

U : The national average unemployment rate. The lag symbols indicate that, in the regressions, this variable is constructed as the average of the current and preceding three quarters.

$\dot{P}_c^{ua}$: A measure of unanticipated inflation during the previous collective agreement. It is constructed as the difference between the actual rate of inflation during the previous contract and the rate forecast when the contract was signed.

e : Random error.

Regression Results

The results of estimating the equation described above by using data for the public and private sectors are presented in Table 6-5. The regressions were originally estimated using ordinary least squares; they were subsequently re-estimated using the Cochrane-Orcutt[23] transformation in order to deal with equations indicating problems

Table 6-5: *Regression Results: Public and Private Sector Strikes, 1972: I to 1980: IV (t-statistics)*

	Independent Variables								
Dependent Variable	C	ℓn EXP	AIB	T	$\sum_{i=0}^{3} a_i U_{t-i}$	$\dot{P}^e_t$	R^2	*D.W.*	*Rho*
1 **ℓn S1PUB**	4.93 (1.17)	–0.18 (–0.88)	0.36 (1.35)	0.05 (3.01)	–0.28 (–1.42)	0.004 (0.11)	0.448	1.55	0.21
2 **ℓn S1PRIV**	–0.03 (–0.03)	1.66 (6.27)	0.04 (0.31)	0.02 (2.59)	–0.35 (–3.02)	0.05 (2.62)	0.659	1.65	0.25
3 **ℓn S2PUB**	12.46 (4.97)	0.32 (0.67)	–0.27 (–0.47)	0.03 (0.95)	–0.34 (–0.82)	–0.06 (–0.71)	0.066	2.01	—
4 **ℓn S2PRIV**	5.00 (1.82)	3.06 (4.39)	0.74 (2.28)	0.05 (2.08)	–0.93 (–3.36)	0.16 (3.33)	0.597	1.91	0.15
5 **ℓn S3PUB**	12.10 (4.40)	0.11 (0.21)	0.25 (0.40)	0.05 (1.30)	–0.51 (–1.10)	–0.02 (–0.27)	0.068	2.06	—
6 **ℓn S3PRIV**	8.10 (2.55)	1.58 (1.98)	0.66 (1.89)	0.03 (1.40)	–0.67 (–2.29)	0.06 (1.11)	0.268	2.01	—

of autocorrelation. In the discussion of the regression results, the major emphasis is on highlighting the differences between the public and private sectors for the three dependent variables: the number of strikes (S1), time lost as a result of strikes (S2), and the number of workers involved (S3).

Number of Strikes

As in most empirical studies of strikes, the frequency variable provides the best results when judged on statistical grounds. In equations 1 and 2 of Table 6-5, several important differences between the public and private sectors stand out. In the public and private sectors, the time-trend variable is positive and significant in equations 1 and 2, but in the public sector regression in equation 2, the trend coefficient is two-and-one-half times larger. This trend confirms some of the concerns, raised in the second section of this chapter, about the operation of the public sector system of collective bargaining. Even when inflation, unemployment and other variables that are likely to affect strikes are controlled for, the upward trend in the number of strikes in the public sector, relative to the private sector, remains. The trend coefficient in equations 1 and 2 indicates the rate of change in strike activity per quarter, since the dependent variable in the regression is in logarithmic form: for example, public sector strikes increase by 5 per cent per quarter, *ceteris paribus.*

The other major difference between the public and private sector results lies in the responsiveness of strikes in the two sectors to the unemployment rate. In his analysis of strikes in American manufacturing firms, Kaufman[24] confirmed the results of most of the earlier studies of strikes in finding a significant negative relationship between strikes and unemployment. In the private sector, higher unemployment serves to reduce the number of strikes, and in the private sector regression in equation 2, there is a significant negative coefficient on the unemployment variable. However, in the public sector regression in equation 1, no statistically significant relationship exists. Thus, strikes in the public sector appear to be less responsive to labour-market conditions than do strikes in the private sector.

The coefficient on the AIB variable is insignificant in equations 1 and 2. The AIB had no apparent impact on restraining strikes, regardless of what its impact may have been on wage determination and the rate of inflation. The positive sign on the AIB variable is consistent with the results of Kaufman's study, in the United States, which found that wage and price controls had a significant positive impact on strike activity. The contract-expirations variable in equations 1 and 2 is positive and significant only in the private sector.

The inflation variable produces the expected statistical result only in the private sector. Consistent with the predictions of the 'rational expectations' hypothesis, inflation which was unanticipated over the previous contract period has a positive impact on strikes in the private sector.

Time Loss Resulting from Strikes

Equations 3 and 4 of Table 6-5 report the results of the time-loss regressions. As in other strike studies, this variable is more difficult to explain econometrically than is the frequency of strikes. In the public sector regressions, only the constant term remains significant. In these regressions, as in the frequency regressions, an increasing unemployment rate acts, in the private sector, to restrain the amount of time lost as a result of strikes, but does not have this effect in the public sector. In addition, the inflation variable continues to have a significant impact on the amount of time lost only in the private sector, and the time-trend variable is no longer significant in the public sector. Equation 4 indicates that the period during which the AIB operated was associated with a greater amount of time lost as a result of strikes, a finding which is consistent with Kaufman's results.

Workers Involved in Strike Activity

Equations 5 and 6 of Table 6-5 report the regression results for workers involved in strikes. These results parallel the results for time loss in equations 3 and 4. Contract expirations are positive and significant only in the private sector, and the variable which measures the extent to which unanticipated inflation occurred during the previous contract is significant only in the private sector.

Renegotiation Strikes

In addition to the core results presented in Table 6-5, the data set on public and private sector strikes was analysed further. Strikes in both sectors are categorized as occurring either during the renegotiation of an agreement or at another time. The results of analysing the data on renegotiation strikes alone are described below.

There are a variety of reasons for analysing only renegotiation disputes. In the context of this study, the interesting aspect of the results contained in Table 6-5 is the AIB variable. The AIB was expected to reduce strike activity, but in the results this relationship is never significantly negative, and it has the wrong sign and a significant coefficient in equation 4. A possible reason for this might be that regressions using all strikes are influenced by the inclusion of short strikes which were initiated in order to protest the AIB controls. To test for this effect, strikes are divided into the categories described above, so that renegotiation strikes can be focused on directly.

The results of regressions using only renegotiation strikes in the public and private sectors are shown in Table 6-6. There are some differences between the results contained in this table and the results of regressions which used all of the strikes, but they are not substantial. Specifically, there is no change in the results in terms of the impact of the AIB. This variable is never statistically significant, and, again, it enters with the wrong sign a number of times. In this particular data set, at least, it appears difficult to find any direct restraining effect that the AIB had on strike activity. Of course, an indirect effect may have been felt throughout the inflation term, depending on the impact of the AIB regulations on price levels.

Strikes in Quebec

The relative behaviour of public and private sector strikes in Quebec is of interest for a variety of reasons. According to Hébert and others,[25] recent strike activity in Quebec, particularly in the public sector, has been a serious policy problem. In addition, many strike studies, such as Kaufman's,[26] have employed political variables in strike regressions. In moving to the analysis of a single political region, we are able explicitly to incorporate a political variable into the analysis in this chapter. A separate analysis for Quebec can be further justified in terms of the data in Table 6-4, which shows the heavy concentration of public sector strikes in Quebec.

The regression results of public and private sector strikes in Quebec are shown in Table 6-7. The structure of the first six equations in this table is the same as that which was previously used in the regressions for all of Canada. The second six equations, however, include a dummy variable, which takes on a value of 1 in

Table 6-6: *Regression Results: Public and Private Sector Renegotiation Strikes, 1972: I to 1980: IV (t-statistics)*

Dependent Variable	*Independent Variables* *C*	*ℓn EXP*	*AIB*	*T*	$\sum_{i=0}^{3} \alpha_i U_{t-i}$	$\dot{P}^u_t$	R^2	*D.W.*	*Rho*
1 **ℓn S1PUB**	3.96 (3.49)	−0.27 (−1.25)	0.07 (0.28)	0.05 (2.85)	−0.13 (−0.67)	−0.22 (−0.58)	0.392	1.86	—
2 **ℓn S1PRIV**	−1.60 (−1.17)	1.88 (5.46)	0.001 (0.008)	0.03 (2.09)	−0.32 (−2.17)	0.04 (1.52)	0.571	1.78	0.23
3 **ℓn S2PUB**	10.57 (3.58)	0.20 (0.35)	−0.90 (−1.34)	0.004 (0.09)	0.07 (0.15)	−0.13 (−1.35)	0.107	2.31	—
4 **ℓn S2PRIV**	3.33 (1.15)	3.13 (4.32)	0.34 (0.94)	0.04 (1.41)	−0.72 (−2.24)	0.12 (2.27)	0.468	1.82	0.28
5 **ℓn S3PUB**	11.11 (3.67)	0.01 (0.02)	−0.31 (−0.45)	0.05 (1.24)	−0.37 (−0.72)	−0.10 (−1.01)	0.096	1.88	—
6 **ℓn S3PRIV**	3.91 (1.26)	2.55 (3.24)	0.44 (1.17)	0.05 (1.70)	−0.76 (−2.32)	0.06 (1.10)	0.320	1.95	0.21

Table 6-7: *Regression Results: Public and Private Sector Strikes in Quebec, 1972: I to 1980: IV (t-statistics)*

Dependent Variable	Independent Variables									
	C	*ℓn EXP*	*AIB*	*T*	$\sum_{i=0}^{3}\alpha_i U_{t-i}$	*P.Q.*	$\dot{P}^u_t$	R^2	*D.W.*	*Rho*
1 **ℓn S1PUB**	3.55 (2.65)	−0.12 (−0.85)	0.39 (1.06)	0.09 (3.05)	−0.33 (−1.62)	—	−0.04 (−0.83)	0.598	1.96	0.37
2 **ℓn S1PRIV**	2.33 (2.76)	0.91 (3.89)	0.08 (0.46)	0.03 (2.10)	−0.19 (−1.82)	—	0.04 (1.48)	0.580	1.07	0.39
3 **ℓn S2PUB**	12.49 (3.17)	0.04 (0.08)	1.72 (1.46)	0.20 (2.35)	−0.88 (−1.47)	—	0.03 (0.20)	0.331	2.20	0.24
4 **ℓn S2PRIV**	10.87 (7.13)	1.50 (3.06)	0.16 (0.51)	0.06 (3.08)	−0.58 (−3.88)	—	0.02 (0.54)	0.410	1.99	—
5 **ℓn S3PUB**	8.69 (2.42)	−0.28 (−0.64)	1.30 (1.21)	0.22 (2.83)	−0.51 (−0.93)	—	0.05 (0.36)	0.492	2.15	0.23
6 **ℓn S3PRIV**	5.81 (2.45)	1.76 (2.42)	−0.54 (−1.06)	0.11 (3.23)	−0.33 (−1.27)	—	0.02 (0.30)	0.610	2.04	0.18
7 **ℓn S1PUB**	5.49 (2.80)	−0.14 (−1.08)	0.26 (0.67)	0.07 (1.95)	−0.56 (−2.00)	1.01 (1.56)	0.07 (1.40)	0.626	1.95	0.50

Table 6-7 (Cont'd): *Regression Results: Public and Private Sector Strikes in Quebec, 1972: I to 1980: IV (t-statistics)*

Dependent Variable	Independent Variables									
	C	$\ell n\ EXP$	AIB	T	$\sum_{i=0}^{3}\alpha_i U_{t-i}$	$P.Q.$	$\dot{P}^u_t$	R^2	$D.W.$	Rho
8 **ℓn S1PRIV**	1.73 (1.84)	0.82 (3.32)	0.13 (0.71)	0.04 (2.61)	−0.09 (−0.66)	−0.43 (−1.28)	0.05 (1.88)	0.603	1.69	0.35
9 **ℓn S2PUB**	13.68 (2.29)	0.04 (0.08)	1.67 (1.36)	0.19 (2.03)	−1.03 (−1.25)	0.59 (0.27)	0.01 (0.06)	0.333	2.19	0.25
10 **ℓn S2PRIV**	8.73 (5.47)	1.06 (2.24)	0.33 (1.17)	0.08 (4.12)	−0.14 (−0.67)	−1.56 (−2.69)	0.07 (1.64)	0.531	2.28	—
11 **ℓn S3PUB**	7.85 (1.45)	−0.29 (−0.63)	1.34 (1.20)	0.22 (2.67)	−0.40 (−0.55)	−0.42 (−0.21)	0.07 (0.40)	0.492	2.17	0.22
12 **ℓn S3PRIV**	1.91 (0.88)	1.13 (1.75)	−0.30 (−0.79)	0.14 (5.64)	0.41 (1.41)	−2.65 (−3.35)	0.10 (1.73)	0.720	2.29	—

those years in which the Parti québécois (PQ) was in power, and a value of 0 otherwise. The hypothesis that is frequently advanced with regard to the effect of the PQ on strike activity is that organized labour in the public sector is less likely to engage in strikes against a government of which it is a supporter. This implies a negative sign for the PQ variable in the Quebec regressions for strikes in the public sector.

The most interesting features of the results in Table 6-7 deal with the PQ variable and the time-trend variable. With respect to the first of these variables, it appears that, contrary to the expectations described above, the PQ government exerted no restraining influence on strikes in the public sector. In fact, equation 7 suggests the possibility of an increase in strike frequency. In a result that is hard to explain, these regressions show that strikes in Quebec's private sector, rather than its public sector, appear to have been reduced during the incumbency of PQ governments. The time-trend variable indicates, in a framework in which other influences on strikes are controlled for, that trend increases in strike activity occurred more strongly in Quebec, as compared to the rest of Canada. The extent of the relative trend increase for Quebec is substantial, and it is larger on average in the public sector than in the private sector.[27] This tends to confirm the hypothesis of Hébert and others, referred to above, that industrial relations problems in Quebec have recently become more severe. Finally, not all of the other variables in the regression conform exactly to the results in Table 6-5; this finding is not unexpected, given that a more disaggregated set of data was used.

Conclusions

This chapter has presented the results of a study in which a model of strike activity, which used data for the public and private sectors in Canada, was tested. The focus of the study is the determinants of public sector strikes and, specifically, the extent of the differences between the determinants of strikes in the public and private sectors. This work can be regarded as an improvement on previous empirical studies of Canadian strikes in a number of respects. First, a variable which controls explicitly for contract expirations is included. This variable, which reflects variations in the potential number of strike situations, always appears in the results with the correct sign and is significant in most of the private sector equations. However, it performs less well in the public sector regressions.

Secondly, the results of this study demonstrate the extent to which there are important differences between the determinants of strikes in the public and private sectors.

In terms of recent policy concerns, the significant time trend with regard to strike frequency explains much of the discomfort felt about the use of collective bargaining by public sector employees. Strike frequency has increased in the public sector, relative to the private sector, although a comparison of equations 3 and 4 in Table 6-5 shows that in terms of the amount of time lost, the frequency of strikes in the private sector has recently increased in relation to that in the public sector. The absence of a trend in the time-loss data for the public sector suggests that strikes in the public sector may be more a political than a purely economic problem. An increase in the frequency of public sector strikes can draw attention to this sector, even if the economic cost of strikes, as measured by the amount of time lost, is not increasing. Much of the public's concern about public sector strikes may also be related to the failure of these strikes to respond to higher unemployment rates. This is in contrast to the trend in the private sector, where unemployment enters all the regression equations with a negative sign. The restraining impact of the unemployment rate on all of the strike variables in the private sector confirms the findings of the other econometric studies of the determinants of strikes.

A further important variable in the frequency regressions of strikes in the private sector is the extent to which unanticipated inflation occurred over the previous contract period. In the private sector, inflation appears to generate distortions in the collective bargaining system, which create pressures for catch-up settlements and generate more strikes. It is not clear from the results of this study why this variable appears not to be related to strike activity in the public sector.

The results regarding the amount of time lost as a result of strikes (S2) and the number of workers involved in strikes (S3) confirm the difficulties encountered in other studies in explaining these series. Both the time-loss variable and the variable regarding the number of workers can be statistically influenced by the behaviour of large bargaining units, particularly when quarterly data are used. It is entirely consistent with the existing literature in this area that less satisfactory econometric results were obtained for these variables. The inflation variable and the unemployment variable remain important determinants of private sector strike activity for S2 and S3, as well as for S2N and S3N, although neither is significantly related to the magnitudes of comparable public sector strikes.

The other significant results of the study concern the findings on strike activity in Quebec. The time-trend variable in the public sector is significantly larger in the Quebec regressions than it is in the regressions for all of Canada. Furthermore, public sector strike activity in Quebec does not appear to have been influenced by the presence of a PQ government. Finally, the general perception of particular difficulties in the industrial relations system in Quebec is confirmed by the findings contained in this chapter.

This study indicates that there are important differences between the determinants of public and private sector strike activity, and the reasons for these differences and their implications have been discussed in this chapter. The most important conclusion that can be drawn is that further work must be done to construct a model of the determinants of public sector strikes that would be comparable to the private sector model on which the results reported in this chapter were based.

Appendix: Data and Sources

Strikes:	S1	Number of strikes
	S2	Time lost as a result of strikes
	S3	Workers involved
	S1N	Number of renegotiation strikes
	S2N	Time lost as a result of renegotiation strikes
	S3N	Workers involved in renegotiation strikes

The source of these data is a set of unpublished tabulations provided by Labour Canada, which separates monthly strikes into totals for the private and public sectors. The suffixes 'PUB' and 'PRIV' denote the public and private sectors, respectively.

Expirations (EXP): Unpublished tabulations of expirations in the public and private sectors, provided by the Department of Labour.

AIB: A dummy variable equal to 1 during the period of operation of the Anti-Inflation Board, and equal to 0 otherwise.

T: A linear time trend running throughout the 1979 to 1980 sample period.

Unemployment (U): The national average unemployment rate from Statistics Canada, *The Labour Force*, Cat. No. 71-001.

Inflation ($\dot{P}$): The quarterly rate of change in the Consumer Price Index from Statistics Canada, *Prices and Price Indexes*, Cat. No. 62–002.

Unanticipated Inflation ($\dot{P}_e^u$): The difference between the actual and expected rates of inflation. Expected inflation was estimated in a variety of ways, using past values of inflation and past rates of monetary growth. The variable used in these regressions employed past inflation rates alone. Complete details on the way in which expected inflation was generated are available from the author.

Acknowledgements

I am indebted to Bernard Fortin, Harry Grosskleg and Ed Walker, all of Labour Canada, for providing the data used in this paper, and to Prakash Sharma for research assistance. I also acknowledge the helpful comments of Gene Swimmer.

Douglas A. Smith

Notes

1. T.J. Courchene, "Post-Controls and the Public Sector".
2. S. Christensen, *Unions and the Public Interest: Collective Bargaining in the Government Sector.*
3. Courchene, "Post-Controls and the Public Sector".
4. For an analysis of the growth of public sector unions, see Chapter 3 by J.B. Rose, "Growth Patterns of Public Sector Unions", in this volume.
5. A. Ponak, "Public-Sector Collective Bargaining".
6. Christensen, *Unions and the Public Interest.*
7. R.M. Bird, "The Growth of the Public Service in Canada".
8. G. Hébert, "Les relations du travail au Québec : Bilan des années 1970".
9. O. Ashenfelter and G.E. Johnson, "Bargaining Theory, Trade Unions, and Industrial Strike Activity".
10. See, for example, B.E. Kaufman, "Bargaining Theory, Inflation, and Cyclical Strike Activity in Manufacturing".
11. For a survey of this literature, see M. Gunderson, "Public Sector Wage Determination: A Review of the Literature".

12. O. Ashenfelter and R.G. Ehrenberg, "The Demand for Labor in the Public Sector".
13. M. Gunderson, "Earnings Differentials Between the Public and Private Sectors".
14. J.-M. Cousineau and R. Lacroix, *Wage Determination in Major Collective Agreements in the Private and Public Sectors.*
15. Gunderson, "Public Sector Wage Determination", p. 184.
16. Kaufman, "Bargaining Theory, Inflation, and Cyclical Strike Activity".
17. *Ibid.*, pp. 336–40.
18. S. Fischer, "Long-Term Contracts, Rational Expectations, and the Optimal Money Supply Rule".
19. J.-M. Cousineau and R. Lacroix, "Activité économique, inflation et activité de grève"; Kaufman, "Bargaining Theory, Inflation, and Cyclical Strike Activity".
20. D.B. Lipsky and H.S. Farber, "The Composition of Strike Activity in the Construction Industry", p. 394.
21. Cousineau and Lacroix, "Activité économique, inflation et activité de grève", p. 357.
22. A more complete description of variables and data sources is presented in the Appendix.
23. D. Cochrane and G.H. Orcutt, "Application of Least Squares Regressions to Relationships Containing Auto-correlated Error Terms".
24. Kaufman, "Bargaining Theory, Inflation, and Cyclical Strike Activity".
25. See, for example, Hébert, "Les relations du travail au Québec".
26. See Kaufman, "Bargaining Theory, Inflation, and Cyclical Strike Activity".
27. A comparison of the trend coefficients in the regressions using data for all provinces and those using data only for Quebec raises questions about the trend in the provinces excluding Quebec. In other words, does Quebec itself account for a substantial portion of the national trend? In order to shed some light on this question, a separate set of regressions was run for all provinces, excluding Quebec. The results of this regression for the trend term are shown below, together with the trend coefficients for Canada and Quebec.

Dependent Variable	T Canada	T Quebec	T Canada, excluding Quebec
S1 PUB	0.05 (3.01)	0.09 (3.05)	0.05 (3.70)
S1 PRIV	0.02 (2.59)	0.03 (2.10)	0.007 (0.77)
S2 PUB	0.03 (0.95)	0.20 (2.35)	0.15 (2.33)
S2 PRIV	0.05 (2.08)	0.06 (3.08)	0.006 (0.26)
S3 PUB	0.05 (1.30)	0.22 (2.83)	−0.14 (−1.13)
S3 PRIV	0.03 (1.40)	0.11 (3.23)	−0.26 (−3.32)

The results shown here are more conclusive for the private sector than for the public sector. In the public sector, the exclusion of Quebec has no impact on the trend coefficient in the S1 regression, it increases it in the S2 regression, and in the S3 regression, the exclusion of Quebec reverses the size of the trend coefficient. The private sector results present a clearer picture. In each case, the exclusion of Quebec substantially reduces the trend coefficient, and in no case is there a statistically significant positive trend term. Taken together, these results suggest that the industrial relations system operates differently in Quebec than it does in the rest of Canada. There is, however, no indication from these results that this difference is specific to the public sector.

Bibliography

Ashenfelter, Orley and Ehrenberg, Ronald G. "The Demand for Labor in the Public Sector" in *Labor in the Public and Nonprofit Sectors*, edited by Daniel S. Hamermesh, pp. 55–78. Princeton: Princeton University Press, 1975.

Ashenfelter, Orley and Johnson, George E. "Bargaining Theory, Trade Unions, and Industrial Strike Activity". *American Economic Review* 59 (March 1969): 35–49.

Bird, Richard M. "The Growth of the Public Service in Canada" in *Public Employment and Compensation in Canada: Myths and Realities*, edited by David K. Foot. pp. 19–44. Toronto: Butterworth for The Institute for Research on Public Policy, 1978.

Christensen, Sandra. *Unions and the Public Interest: Collective Bargaining in the Government Sector*. Vancouver: The Fraser Institute, 1980.

Cochrane, D. and Orcutt, G.H. "Application of Least Squares Regressions to Relationships Containing Auto-correlated Error Terms". *Journal of the American Statistical Association* 44 (1949): 32–61.

Courchene, Thomas J. "Post-Controls and the Public Sector" in *Which Way Ahead? Canada After Wage and Price Control*, edited by Michael Walker, pp. 141–81. Vancouver: The Fraser Institute, 1977.

Cousineau, Jean-Michel and Lacroix, Robert. "Activité économique, inflation et activité de grève". *Relations Industrielles* 31, (No. 3 1976): 341–58.

Cousineau, Jean-Michel and Lacroix, Robert. *Wage Determination in Major Collective Agreements in the Private and Public Sectors*. Ottawa: Economic Council of Canada, 1977.

Fischer, Stanley. "Long-Term Contracts, Rational Expectations, and the Optimal Money Supply Rule". *Journal of Political Economy* 85 (February 1977): 191–205.

Gunderson, M. "Pubiic Sector Wage Determination: A Review of the Literature" in *Public Employment and Compensation in Canada: Myths and Realities*, edited by David K. Foot, pp. 167–88. Toronto: Butterworth for The Institute for Research on Public Policy, 1978.

Gunderson, M. "Earnings Differentials Between the Public and Private Sectors". *Canadian Journal of Economics* 12 (May 1979): 228–42.

Hébert, Gérard. "Les relations du travail au Québec : Bilan des années 1970". *Relations industrielles* 36 (No. 4 1981): 715–47.

Kaufman, Bruce E. "Bargaining Theory, Inflation, and Cyclical Strike Activity in Manufacturing". *Industrial and Labor Relations Review* 34 (No. 3 1981): 333–55.

Lipsky, David B. and Farber, Henry S. "The Composition of Strike Activity in the Construction Industry". *Industrial and Labor Relations Review* 29 (No. 3 1976): 388–404.

Ponak, Allen. "Public-Sector Collective Bargaining" in *Union-Management Relations in Canada*, edited by John C. Anderson and Morley Gunderson, pp. 343–78. Toronto: Addison-Wesley, 1982.

Rose, Joseph B. "Growth Patterns of Public Sector Unions" in *Conflict or Compromise: The Future of Public Sector Industrial Relations*, edited by Mark Thompson and Gene Swimmer. Montreal: The Institute for Research on Public Policy, 1984.

7: *Public Sector Bargaining in Quebec: A Case of Hypercentralization*

GÉRARD HÉBERT

Gérard Hébert is Professor, *École de relations industrielles, Université de Montréal.*

Contents

Introduction 233
The Contexts 234
  The Social Context 234
  The Economic Context 235
  The Political Context 236
  The Legal Context 238
Historical Perspective 239
  The 1940s and 1950s 239
  The Decade of the 1960s 242
  The Bargaining Rounds of the 1970s 245
The Bargaining Structures 249
  Trade-Union Structures 249
  Management Structures 253
    Government as Management 254
    The Bargaining Tables 255
The Bargaining Outcomes 261
  Benefits for the Employees 261
  Effects on Employers 263
  The Impact on the Government 264
  The Impact on the Public 266
The Outlook 267
Postscript 269
Notes 275
Bibliography 277

Public Sector Bargaining in Quebec: A Case of Hypercentralization

Introduction

In Quebec, the words 'public sector' refer to three categories of employees. First, there are the direct government employees, or public servants; they include white- and blue-collar workers, as well as professional, office, and other employees; they comprise the 'public sector' in the proper sense of the term. The second category, often called the 'parapublic sector', comprises the employees of the social affairs and education sectors. The social affairs sector includes both public and private hospitals, homes for the elderly and other needy groups, the social services, and public health institutions. The education sector relates mainly to the grade schools and high schools throughout the province and to the public network of colleges, usually called *Collèges d'enseignement général et professionnel* (CEGEP). The universities and private colleges follow closely the pattern of the general bargaining system in the education sector but are not integrated into it. The third category is made up of the employees of government agencies, such as Hydro-Québec and the liquor board. A new term has been coined for this group: the 'peripublic sector'. Over the years, its relationship to the main core of public sector bargaining has varied from total integration to total separation; that is, it has moved in and out of the so-called 'Common Front'. When one speaks of public sector bargaining in Quebec, it is always in reference to the first two groups, the public and parapublic sectors; when the third group is included, it is usually mentioned explicitly.

Public sector labour relations in Quebec exhibit many features that are unique to that province. The most striking difference from other jurisdictions is the degree to which collective bargaining has been centralized. An idea of the extent of centralization can be obtained by comparing the following figures. In the federal public service, just over one hundred bargaining units deal with the working conditions of 250 000 federal employees; in Quebec, one huge bargaining unit decides on the basic working conditions of 300 000 direct and indirect Quebec government employees. Other characteristics of the system of public sector bargaining in Quebec will also be emphasized in this chapter. First, the contexts in which the system developed will be sketched in order to show how they have affected public sector bargaining. An historical overview will follow, highlighting the progression from a highly fragmented to a highly centralized system. The bargaining structures and their most important outcomes will then be analysed. The chapter will conclude with a summary of the current events and a few considerations on the outlook for the future.

The Contexts

Many factors have influenced the shape and character of public sector bargaining in Quebec. The social, economic, and political contexts have made their own contributions, while the legal context has been determinative because of its direct impact on the structure of the process. These contexts will be reviewed successively.

The Social Context

Public sector bargaining came to Quebec as part of the so-called 'Quiet Revolution'. Following the death of Premier Maurice Duplessis in 1959 and the election of a Liberal government in June 1960, the politics of the province evolved from being very conservative to become very liberal. In the area of labour relations, the right to strike was granted to all without limit by the Labour Code enacted in 1964. A year later, public servants obtained the right to bargain and to strike.

Public sector employees and their unions have been active agents of the Quiet Revolution. The newly elected government relied heavily on public servants to develop and implement its many social reforms. The main target was education. The public school system was revamped, especially through newly built, centralized high schools. A network of junior colleges was established and staffed by university graduates. A new university was created, the Université du Québec, with six campuses spread across the entire province. This tremendous expansion was possible because federal funds for education had accumulated during the Duplessis years; for political and nationalist reasons, he had not used them. The public employees that were involved in this process were agents of social reform. The government needed them, perhaps even more than the employees needed the government as their employer. In such a climate, unionization was considered an asset, and the successive governments acted towards its employees more as friends and colleagues than as employers.

The unions, especially those affiliated with the Confederation of National Trade Unions (CNTU), actively and aggressively demanded change. In 1969, the CNTU, to symbolize the unions' evolution, adopted its new name, the *Confédération des syndicats nationaux* (CSN), thus dropping the former reference to the Catholic church and emphasizing its nationalist orientation. All of these elements made for a positive relationship between the government and the representatives of its employees, a relationship which has surely contributed to the many benefits the unions have enjoyed over the course of more than a decade. In the late 1970s and early 1980s, however, there was a dramatic reversal, which brought about a change in both the economic and political climates.

The Economic Context

The Quiet Revolution, and the Liberal Party which incarnated it at the beginning of the 1960s, had strong and definite economic objectives. These objectives were embodied in the slogan, *Maître chez nous*, which soon became a political banner; paraphrased, it meant, "We want to be masters of our own destiny and run our show ourselves." This slogan grew out of the fact that industry and business in Quebec had always been controlled by anglophones. The state was considered, both by the people and by the government itself, to be the major, if not the only, instrument that could give francophones a significant place in the economy. An important step towards that goal was the nationalization, in 1963, of the electric power companies that had been operating alongside Hydro-Québec. This was followed, in 1964, by the establishment of *Sidbec*, the steel industry owned by the Quebec government; the *Caisse de dépôt et de placement* (the Quebec Deposit and Investment Fund) was established in 1965 to administer the moneys contributed to the Quebec Pension Plan.

The trend underlying these and other actions by the government implied and was accompanied by a huge degree of centralization in the process of decision making. Centralization of public sector bargaining was part of that larger movement. Another implication was the change in working conditions. The unions took great pains to ensure that their members would share in the potential benefits flowing from this massive participation of government in economic life. But the economic context changed enormously in the following decade. While conditions of steady growth, relatively stable prices, and low interest rates were enjoyed in the 1960s, the economy found itself in the reverse situation in the late 1970s. The effect on public finances was dramatic, as were the consequences for public sector bargaining. These difficulties were compounded by a changing and somewhat confused political context.

The Political Context

In Quebec, the reforms that were begun under a Liberal government were continued by the *Union nationale*, elected in 1966. The new government continued to enjoy the support of major intellectual groups, a great number of teachers, and the labour movement in general, although to differing degrees. The groups had some nationalistic tendencies, but few went further than to call for a special status for Quebec in the Canadian confederation.

Minority groups took more drastic positions. Various movements for an independent Quebec were founded in the mid-1960s. They finally merged into one political party, the Parti québécois (PQ), which took a middle-of-the-road position, calling for a sovereign Quebec that would seek association with the other Canadian provinces. In 1970 the Liberal Party was returned to power under the leadership of Robert Bourassa. But the honeymoon between the progressive intellectuals, including the labour leaders, and the party in power was well over. In the fall of 1970, the episode with the *Front de libération du Québec* (FLQ), which saw the kidnapping of a British diplomat and the killing of the Quebec Labour Minister, widened the gap betwen the moderates and the radicals, even within the ranks of the progressive groups. But it did not rally the progressive forces to the support of the party in power.

The dramatic events that surrounded public sector bargaining in 1972 completed the divorce between the Liberal government and the progressive forces of both the nationalist movement and the trade unions. In 1973, the *Union nationale* did not win a single seat in the election, and the PQ, with its six members, became the Official Opposition in the National Assembly. For the public sector unions, the entire situation had become ideal, strange as it may seem: they could simultaneously be progressive, nationalist, anti-employer, and anti-government. They, of course, had the full backing of the PQ Opposition members. In November 1976, the election of the PQ changed the game completely and proved to be a mixed blessing for public sector unions. Some representatives continued their anti-government stance, but many others could not disavow their previous public declarations of support for the policies and members of the PQ. Thus the 1976 election created severe divisions within the labour movement itself, especially among public sector unions and, to an even greater extent, among teachers.

Initially, the new government continued to favour labour openly. For instance, its first major decision, taken almost immediately after the election, was to cancel the various actions and lawsuits against the public sector unions that had defied the law and the injunctions issued during the 1976 round of bargaining. However, after a few years in office, severe economic constraints required that the PQ government make changes if it was to maintain its position. Thus it began the 1978-79 round of bargaining with rather harsh statements, even saying that the generous cost-of-living adjustment clause for public sector employees would be eliminated. Because of the government's new position, public sector unions again resorted to both legal and illegal tactics, just as they had before. Back-to-work legislation had to be adopted in four cases during the year of November 1979 to October 1980. After the referendum, the difficulties returned to the forefront as economic constraints became more and more compelling.

In a sense, Quebec society has come full circle. The PQ election in 1976 has been considered by many as another step towards the goal of the Quiet Revolution. Six years later, however, the PQ had lost most of its progressive supporters. One might say it has lost all of them, except those for whom the nationalist objectives are supreme; certainly it has lost all of the labour leaders. Some observers even underlined similarities between the current regime and that of Duplessis. In other words, the political climate under which public sector bargaining has been conducted over the last two decades has undergone profound and determinative changes.

The Legal Context

The legal context of public sector bargaining in Quebec is of a different nature from that in other provinces. It has, of course, a direct impact on collective bargaining structures and even on the outcomes of bargaining. The way the legislation has structured public sector bargaining in Quebec is so different from that in the private sector and in the public sectors of other Canadian provinces that it needs to be described in some detail. The description will concentrate on the situation that existed about 1980. The historical perspective will be provided later.

Looking at Harry Arthurs' five models of collective bargaining by public sector employees,[1] the Quebec system (and that of Saskatchewan) would seem to be the most similar to the model of private sector bargaining, in that all industrial relations for all public employees are governed by the Quebec Labour Code. There are specific provisions in the code for these people, but all public employees finally enjoy the right to strike; the only exceptions are municipal policemen and fire-fighters, the Quebec Provincial Police, and a few guards or quasi-police officers.

Public servants carry on collective bargaining under the Quebec Labour Code, with a few additional specifications contained in the Civil Service Act. As in all Canadian jurisdictions, some restrictions exist on the composition of the bargaining units and the scope of bargainable items. The Act adds only one more constraint to the bargaining process, namely, the obligation to bargain and agree on the essential services to be maintained during a work stoppage. In the case of disagreement between the parties on that point, the Labour Tribunal will decide.[2] The agreement on such services is of a permanent nature: it does not need to be reviewed or renegotiated unless one party so requests. The proportion of these 'designated' employees fell from 32 per cent in 1966 to 12 per cent in 1968 and 6 per cent in 1971.[3] To date, it has remained at approximately the 1971 level and is no longer a serious issue.

In the parapublic sector, the special provisions regulating employee disputes and their right to strike have varied over time. Since 1978, the parties in the social affairs sector must bargain locally over the essential services to be maintained in the case of a work stoppage and must do so at least six months prior to the expiration of their collective agreement. If they do not come to an agreement, the union submits its own list of essential services, and this list becomes the rule.[4] Cabinet may suspend the right to strike if it deems the proposed essential services to be insufficient. Otherwise, the only constraint on striking is the maintenance of these services.

Another legal specification pertains to the structure of negotiations. For every round of public sector bargaining in the 1970s, the National Assembly enacted a bill to determine how the bargaining tables would be set up and what matters, if any, could be left for local or regional bargaining.[5] Since the 1978 Act is still in effect, it also applied to the 1982 round of bargaining. Such legislation made the centralized form of bargaining legal, despite the granting of bargaining certificates to small local units, such as the nurses in a hospital or the support employees of a local school board. There are more than 2300 such certified units in the Quebec parapublic sector.

Historical Perspective

With these contexts in mind, it seems appropriate to take a longer look at how the current system has evolved. Three periods can be identified: the 1940s and 1950s, when binding arbitration was the only accepted method for dispute resolution; the 1960s, when the new rules were introduced; and the 1970s, when the current rules, except for minor amendments, were already in full effect. They continued in much the same manner in the 1980s.

The 1940s and 1950s

Until 1964, labour relations in Quebec were mainly governed by the Labour Relations Act of 1944.[6] Simultaneously, the Quebec National Assembly had passed the Public Services Employees' Disputes Act,[7] which dealt exclusively with labour disputes in the public services. Strike action was prohibited, but binding arbitration was available to the parties as an alternative for impasse resolution. Because public services were defined in a very broad way, strikes were prohibited for a fairly large number of employees. These included all those in the areas of transport and communications under provincial jurisdiction, such as bus services and local trucking, all municipal and school employees, and all employees of hospitals and social institutions. (Table 7-1 lists the most important dates in the history of collective bargaining for the public sector and divides labour legislation into general and specific legislation.)

During the 1940s and the 1950s, public servants, white- and blue-collar alike, had no right to form a union and bargain collectively; however, unionization was open to such groups as municipal employees and hospital and school-board workers. In these sectors, unionization advanced rather quickly in the larger cities and

Table 7-1: *The History of Collective Bargaining in the Quebec Public Sector*

	General Legislation	*Specific Legislation*	*Main Events*
1944	Labour Relations Act P.S. Employees' Disputes Act (no R.S. in P. Serv.)		
1946		Quebec Teachers Corporation Act	Local bargaining in school boards and unionized hospitals
1961		Free hospital-care legislation	Regional bargaining in hospitals
1964	Labour Code, s. 99 (R.S. to all employees excluding police and fire fighters)		
1965		Civil Service Act (Bill 55) C.B. and R.S. to C.S.	1st round of bargaining: C.S.
1966			1st provincial hospital strike
1967		An Act to ensure . . . the right to education (Bill 25)	Massive regional teachers' strike
1968–69		Civil Service Dept. Act	2nd round of bargaining: C.S. Hospital (by union affiliation) Teachers

1971–72		An Act respecting C.N. in the education and hospital sectors (Bill 46)	3rd round of bargaining: public and parapublic (peripublic, partly) Common Front of unions
1975–76		Bill 19 An Act respecting C.B. in the sectors of educ., social affairs and gov. agencies (Bill 95) Bills 253, 23 and 61	4th round of bargaining: C.S. Hospitals Schools and colleges
1978–79	An Act amending the Labour Code (Bill 45) An Act am. the L.C. (Bill 59)	An Act respecting C.N. (Bill 55)	5th round of bargaining
1981		The C.S. Act (Bill 50) An Act am. the Civil Service Act (Bill 25)	
1982–83	An Act am. the L.C. (Bill 72)	An Act . . . compensation (Bill 70)	6th round of bargaining

Key

C.B.: collective bargaining
C.S.: civil service, civil servants
C.N.: collective negotiation
L.C.: Labour Code
P.S.: public service
R.S.: right to strike
T.B.: Treasury Board
am.: amending

more slowly in remote areas. As in the private sector, bargaining was done on a highly fragmented basis, with each hospital or school board bargaining separately with each group of its unionized employees. Multi-employer bargaining occurred infrequently. Despite some illegal strikes, the parties managed, in general, to live rather peacefully under the binding arbitration system.

The Decade of the 1960s

At the end of the 1950s and during the beginning of the 1960s, tensions existed in the various sectors that fell under the jurisdiction of the Public Services Employees' Disputes Act. It seemed somewhat awkward for railway strikes to be legal all across Canada and, at the same time, to tell local transport employees under provincial jurisdiction that they were not allowed to strike. The need to revise the law became compelling, and in the early 1960s, various committees were set up to recommend changes for different categories of public sector employees.

In 1964, the National Assembly thoroughly revised the basic provisions affecting the Public Service Employees' Disputes Act and some provisions of the Labour Relations Act; it substituted the Quebec Labour Code[8] for these two Acts and a few others. The new legislation granted the right to strike to all unionized employees, except for municipal police and fire-fighters. Another Act prevented the Quebec Provincial Police and, later, prison guards and other peace officers from striking. All other public service employees enjoyed the right to strike, subject only to the requirement that they notify the Minister in advance, eight days before a strike was to begin.[9] Then Cabinet could, if it deemed that public health or safety was at stake, set up a fact-finding board and request an injunction to postpone the strike for not more than eighty days. After the delay, the union could strike. If the government still felt that the strike could not be tolerated, it could only enact special legislation.

In 1965, a new Public Service Act was adopted.[10] By amending the Labour Code to include the Crown in its definition of an employer and by including a few additional provisions in a chapter of the Act, it granted public servants the right to unionize and bargain collectively. The Act determined, for instance, how the bargaining units would be set up, and added the obligation to ensure that essential services would be provided in the event of strike action. Aside from these provisions, the Labour Code would apply to public servants as it would to any other group of employees in Quebec.

Unionization was well advanced in the early 1960s among the teachers employed by the various school boards. In those schools that were under the jurisdiction of Catholic school boards, membership in the Professional Corporation of Teachers (*Corporation des instituteurs et institutrices catholiques du Québec*, or the CIC) was a legal prerequisite for being a teacher. When a local group of the CIC requested the Labour Relations Board to certify it as a bargaining agent, it already enjoyed, in a sense, the benefits of a union-shop situation: all of its teachers were already members of the CIC. The employees of each school board were certified and made up a bargaining unit; thus collective bargaining was conducted separately by each school board, through negotiations with the representatives of the teachers and of the other groups of certified employees.

In the hospitals, unionization grew slowly until 1961, when public hospitalization insurance came into effect. Unions were quick to press for an increase in unionization and for better working conditions. Although collective bargaining was, in general, conducted on a strictly local basis, local groups gradually got together after 1961, first by city and then in regional bargaining units. Soon they amassed on a provincial level and bargained a collective agreement applying to all hospitals across the province.[11] The following figures illustrate this process: in 1960, there were approximately one hundred different bargaining tables, covering 10000 unionized employees in about one hundred hospitals. In 1964, two hundred hospitals with 40000 employees were unionized, but the number of bargaining tables was down to a dozen. And in 1966, only one large bargaining session for the hospitals of the entire province took place to determine the working conditions of 60000 unionized employees. That bargaining round saw the first province-wide strike in Quebec hospitals; the strike lasted from the end of June to early August.[12] That same year, public servants bargained for their first collective agreement. Although classification was not negotiable, the parties agreed to revise completely, and as soon as possible, the classification system for government employees. A consultative committee of eight persons was to be established, three of whom would represent the union.

The 1966 bargaining round for hospitals and public servants is considered to have been the first round of public sector bargaining in Quebec. The teachers were not part of it. In the autumn of 1966, however, bargaining for the teachers began, separately in most cases, with the 1000 local school boards for grade schools and with the 55 regional school boards for the high schools. Negotiations moved so slowly that early in 1967 the 25 000 teachers (one-third of all Quebec school teachers) who were employed by 300 school boards were still without a contract. Their bargaining session took place at forty tables.[13] The impasse stemmed mainly from provincial government efforts to impose a provincial standard for teachers' salaries. Some unions refused to accept the standards, and a series of strikes occurred, some of which were protracted and quite strident. After the Montreal Catholic teachers struck in mid-February, the government ordered all teachers back to work, imposed its standards throughout the province, and directed the parties involved to prepare for a province-wide negotiation in the next round of bargaining.[14]

The first collective agreement to emerge from province-wide bargaining was signed in November 1969. Public servants had already settled their second collective agreement in July 1968, and hospital workers were also finishing their second round of bargaining. These events are usually referred to as the second round of bargaining in the Quebec public sector.

It should be noted here that the drive for an ever-increasing degree of centralization had not come consistently from one group or the other. For instance, in the early 1960s, the CNTU, representing the various hospital employees' unions, was highly vocal in requesting direct negotiation with the provincial government. A favorite slogan at that time was, "Let the ghost come out of the cupboard." The 'ghost' was the provincial government, which, since hospital insurance had come into effect, was financing hospital expenses, and the 'cupboard' was the area 'backstage', where hospital directors and government representatives discussed the financial provisions of the agreement. But when the government intervened directly in the 1966 bargaining, the unions were dismayed. For the first time, government appeared as a real employer, preoccupied with the size of the demands and with their budgetary implications. From then on, the government itself was the driving force in the maintenance and promotion of the centralization of collective bargaining.

For the teachers and the school boards, the process was quite different. For various reasons, the CIC was against province-wide bargaining with the government. In this case, the government imposed the centralization. The teachers' unions provided the situation the government needed: the many prolonged and difficult strikes that were waged across the province in late 1966 and early 1967 necessitated government intervention. The critical event was the rejection of a final offer by the Montreal Catholic teachers, an offer which granted them all of their demands that were related to pedagogical questions and which missed their monetary demands by less than 2 per cent.[15] The refusal of the teachers to accept that offer and the prospect of a much longer strike in Montreal caused the adoption of Bill 25, which imposed province-wide bargaining for the future round of negotiations. Had the Montreal teachers accepted the Commission's offer in 1967, the shape of public sector industrial relations in Quebec might have been quite different from what it is today.

The Bargaining Rounds of the 1970s

The third round of bargaining, in 1971 and 1972, was the first to take place after the aforementioned factors had caused centralization. It also saw the first Common Front of public sector unions. Most of the collective agreements in the public and parapublic sectors in Quebec ended on 30 June 1971.[16] Even public corporations, such as Hydro-Québec, had signed agreements ending on that date. The third round of bargaining was the most militant and the most turbulent of all. It also marked the first time that high-ranking union officials recommended that their members break the law. That gesture eventually caused the imprisonment of the presidents of the three central bodies comprising the Common Front.

The entire process of bargaining in the third round was protracted. When unions asked to bargain in the Common Front, it took the government almost a year to agree. Then, bargaining at the sector tables (for public servants, hospitals, school boards, and so on) dragged on for months, and a one-day general stoppage was held on 28 March 1972. Two weeks later, all public sector employees went on strike. So many items remained unresolved at both the central and the sector tables that it was impossible to reach an agreement. After ten days, a special law was passed (Bill 19), which ordered all public employees back to work. It provided for continued bargaining and the threat of a government decree if agreement was not reached by the end of June.[17] After this special bill, sporadic strikes were staged in early May, with grave trouble developing in several small cities. During the strikes of March and April, many hospitals had requested and obtained injunctions. However, on the recommendation of the three presidents of the Common Front, the orders were not respected at thirty-two institutions. As a result, unions and individuals received heavy fines, and the three presidents were given one-year prison terms. They entered prison with full media coverage, and arrangements were later made for them to serve their sentences during weekends.

Not all public employees were happy with the situation. Hydro-Québec employees withdrew from the Common Front in May, and public servants did the same in August. In June, the CNTU suffered the greatest schism of its history: 40000 of its members, most of them from the private sector, seceded to create the *Centrale des syndicats démocratiques* (CSD). In the meantime, bargaining had resumed at the various public sector tables, and most of the agreements were signed. However, one group, the school teachers, did not reach agreement, and in December 1972, the government adopted a decree that would serve as their collective agreement for the next three years. The decree contained all of the provisions already agreed to, as well as a decision on the few items remaining in discussion.

The fourth and fifth rounds of bargaining, in 1975-76 and 1978-79 respectively, met with difficulties, but never to the extent of those in 1972. The Common Front never again had the same coherence, and work stoppages were spread over longer periods of time. Moreover, until 1982, work stoppages never included the entire public and parapublic sectors simultaneously.

Most of the agreements signed during the 1972 bargaining round expired on 30 June 1975. But the bargaining was moving independently from one sector to the other, to such an extent that public servants were ready to sign again in December 1975. For the schools and the hospitals, the bargaining process lasted much longer, that is, until the following summer. At that time, a new formula was introduced, which was to be developed in later rounds. According to this formula, a commissioner was appointed to ascertain whether essential services were maintained in the hospitals. Which services were to be maintained was determined by agreement between the parties or was imposed by the commissioner.[18] Later, another group of commissioners was established to investigate labour disputes concerning school boards and their employees.[19] Work stoppages continued to occur, at various times and places, from February to August 1976. In the summer, the government again had to use back-to-work legislation against some school-board employees and some groups of hospital and health-service workers.[20] Other collective agreements were signed in the meantime.

When the fifth round of bargaining began in 1978, it appeared that it would be the most decentralized of all. However, it turned out not to be so. A few important groups that had signed earlier in the previous round were coming up for bargaining in mid-1978. By early 1979, they were reasonably close to an agreement. In February, the anglophone Catholic teachers signed agreements, but the other two groups, the Cartel of Professional Health Organizations (COPS) and the Civil Servants' Union, rejected the government's offer. By the summer of 1979, the major groups of employees in the social affairs and education sectors were already in the process of bargaining; their agreements had expired on 30 June 1979. It became clear that there would be no settlement with the two other groups before an agreement had been reached with the Common Front.

Rotating strikes were staged during the course of the entire bargaining period, beginning in the fall of 1978. However, they became more intensive between May and November 1979, when the first major settlement occurred. In May 1979, the Common Front was formed, and discussions at the central table took place in June. Intensive bargaining resumed in September, and many major points were quickly settled, including the pension plan, a substantial and extended maternity leave, and a new formula which guaranteed employment within regional boundaries.

In the meantime, unions had been preparing for a general strike. But on 12 November, the National Assembly passed a law prohibiting all strikes in the public sector until 29 November and ordering all unions involved to submit to their members, in a secret ballot, final propositions for the government; these propositions were to be tabled in the National Assembly not later than 21 November.[21] In response to the law, Common Front leaders invited their members to engage in civil disobedience. Public servants and teachers complied with the law, while CNTU hospital unions struck for four days. Bargaining continued during the strikes, and an agreement on the wage issue was finally obtained on 23 November, ending the dispute in the social affairs sector. In order to complete the agreement as quickly as possible, non-monetary issues were set aside by government representatives in favour of maintaining the *status quo* on these clauses. Bargaining resumed for the other sectors as well. The Civil Servants' Union had an agreement by December, and COPS reached one in January 1980. The teachers reached agreement only after a three-week strike in January and February, and the other smaller groups signed on various dates, the last agreement occurring as late as October 1980.

It may seem strange that the basic settlement came so quickly after less than three months of intensive bargaining in the fall of 1979. There is but one convincing reason: the PQ government wanted to get the public sector negotiations out of the picture as soon as possible so that it could concentrate all its energies on the forthcoming referendum on sovereignty association in the spring of 1980. That political fact caused the government to accelerate the pace of bargaining at the central table, to set aside questions raised by hospital and school-board associations at sector tables, and to concede most of the union demands. Besides referenda, there were other political overtones in the fifth round of public sector bargaining. To mention but a few, both parties revealed their opening positions simultaneously to the press and to the other party, the opening session of the Common Front was conducted publicly, in front of all the news media, and the parties waged a newspaper-advertising war. These activities indicate that the process is much more a political confrontation than a collective bargaining event.

The sixth round of bargaining began in a very different context. Its centralization matched that of 1972, if it did not exceed it. The government ensured that all agreements signed in 1979 and 1980 would expire on 31 December 1982. In the meantime, the finances of the Quebec government had deteriorated to an alarming degree. In an economic summit meeting held in Quebec City in April 1982, the government requested that all of the unions involved forgo both the increases guaranteed in their respective agreements and, more specifically, the cost-of-living increases scheduled for 1 July, 1 October, and 31 December. When the unions refused, the government ordered a roll-back between 1 January and 31 March 1983, the end of the fiscal year.[22] A section of the Act provides that the roll-back will not apply if the unions involved come to an agreement with the government in the meantime. In November 1982, negotiations were still in progress, but there was no solution in sight.

Such has been the evolution of public sector bargaining in Quebec since the early 1960s. The growth from a low degree of unionization, perhaps 20 per cent, to compulsory membership of almost 100 per cent took place in ten years. The change from a piecemeal bargaining structure to complete centralization was also achieved in ten years. Although there was some possibility of decentralization in the mid-1970s, it was rapidly curbed by the government's will to end all collective agreements on 31 December 1982. The 1982 round of bargaining could prove to be the most centralized since the beginning of the system. No round of bargaining, except the one in 1968-69, was completed without severe and usually protracted strikes, accompanied by the usual problems associated with strikes in the public sector.

The Bargaining Structures

The bargaining structures in the Quebec public sector reflect the way in which the three major actors, or groups of actors — the unions, the employers (such as hospitals and school boards) and the organizations that represent them, and finally, the government itself — are organized. They will be considered in turn.

Trade-Union Structures

Quebec public sector employees are organized in a variety of unions which may be either affiliated to different central bodies or unaffiliated. In Quebec there is more than one central trade-union body. Besides the Quebec Federation of Labour (QFL), which speaks for the locals of the usual international and Canadian unions, the Quebec-based national unions are affiliated with the CNTU. A smaller group, the *Centrale des syndicats démocratiques* (CSD), seceded from the CNTU in 1972 because its members disagreed with the central's radical approach. Other groups, with different tendencies, also exist. Affiliations among public sector employees reflect this variety of orientations, but the larger and more militant group is that of the various national unions affiliated with the CNTU. (See Table 7-2)

Most general hospital workers, both white- and blue-collar, and those representing all types of support employees, belong to national unions in the CNTU-affiliated Federation of Social Affairs. The other 25 per cent of hospital workers are members of Canadian Union of Public Employees (CUPE) locals and of the Service Employees' International Union, which is affiliated with the QFL. A small number of general employees are represented by a few other unions, most of which are scattered across various areas. Most nurses, professionals, and technical employees in hospitals belong to independent bodies, the majority of which have regrouped in the Cartel of Professional Health Organizations.

Grade-school and high-school teachers belong to three main unions. The biggest group, the Quebec Teachers' Congress (QTC) or the *Centrale de l'enseignement du Québec* (CEQ), is comprised of francophone teachers and represents approximately 65 000 public school teachers. The Provincial Association of Protestant Teachers (PAPT) has approximately 7000 members, and the Provincial Association of Catholic Teachers (PACT) has about 4000. The non-teaching professionals in the public schools belong either to the QTC or to one of several professional associations. The support employees, both white- and blue-collar, belong mostly to CNTU

Table 7-2: -*Major Unions in the Quebec Public Sector*

Affiliation	*Name or group*	*Represented by*	*Sector*
Quebec unions	Social Affairs Federation	CNTU (CSN)	Hospitals
	Fed. of Public Serv. Employees	CNTU (CSN)	Support employees (schools)
	Fed. of Professional Salaried Workers	CNTU (CSN)	Some nurses and professional workers
	Quebec Teachers Congress	QTC (CEQ)	Schools
Canadian unions	Canadian Union of Public Employees	QFL (FTQ)	Hospitals and schools Governement agencies (Hydro-Québec)
International unions	Service Employees International Union	QFL (FTQ)	Hospitals
	Office and Professional Employees International Union	QFL (FTQ)	Hospitals and schools
Independent unions	Nurses and paramedics	CPHO	(COPS) Hospitals
	Quebec Civil Servant's Union	QCSU	(SFPQ) Civil Service
	Provincial Association of Protestant Teachers		Schools
	Provincial Association of Catholic Teachers		Schools
	Federation of Municipal and School Employees		Support employees (education)

Table 7-2 (Cont'd): *Major Unions in the Quebec Public Sector*

Affiliation	*Name or group*	*Represented by*	*Sector*
Abbreviations			
CNTU[a]	Confederation of National Trade Unions, or the CSN	Confédération des syndicats nationaux	
CPHO	Cartel of Professional Health Organizations, or COPS	Cartel des organismes professionnels de la santé	
PACT	Provincial Association of Catholic Teachers		
PAPT	Provincial Association of Protestant Teachers		
QCSU	Quebec Civil Servants' Union, or the SFPQ	Syndicat des fonctionnaires provinciaux du Québec	
QFL[a]	Quebec Federation of Labour, or the FTQ	Fédération des travailleurs du Québec	
QTC[a]	Quebec Teachers' Congress, or the CEQ	Centrale de l'enseignement du Québec	

Note

a. The Common Front is made up of representatives of the three major central bodies, the CNTU, the QFL, and the QTC (the CSN, the FTQ and the CEQ respectively). Membership is distributed as follows:

	Hospitals	*Schools and Colleges*	*Totals*
CNTU	70 000	15 000	85 000
QFL	25 000	5 000	30 000
QTC	—	85 000	85 000
			200 000

locals, but QFL unions and a few others are also represented in that category. Most of the teachers in public colleges (*Collèges d'enseignement général et professionel* or the CEGEP), belong to CNTU locals, and a few belong to the QTC. The non-teaching professionals are divided about equally between the CNTU, the QTC, and two independent groups; most of the support employees in the colleges are members of the CNTU.

Because bargaining is so highly centralized, while union membership is so diversified, central bodies are prominent at the bargaining tables. The Common Front is made up of representatives from the three major central bodies: the CNTU, the QFL, and the QTC. The spokesperson for the CNTU represents 85000 CNTU members, most of whom are general hospital employees, and some professionals in hospitals and schools, as well as support employees in schools and colleges. The QFL represents primarily the same groups, but to a lesser degree, since it has only 30000 members, and it excludes professional employees, few of whom belong to QFL unions. Finally, the QTC represents 65000 public school teachers, as well as 20000 college teachers, non-teaching professionals, and support employees in the education sector. Universities are not represented in this structure, although the working conditions of their employees directly reflect those established by the agreements signed by the government and the Common Front unions. On those occasions that government agencies, such as Hydro-Québec and employees of the liquor board, were included in Common Front bargaining (as they were in the third and sixth rounds), the QFL represented another 12000 unionized Hydro-Québec employees.

In addition to the centrals, several independent groups are important. The largest is the Quebec Civil Servants' Union (*Syndicat des fonctionnaires provinciaux du Québec* or SFPQ), which is certified by the Civil Service Act[23] to represent, with the exception of professionals and managers, all direct employees of the government, both white- and blue-collar. The SFPQ has approximately 25000 white-collar members, 10000 blue-collar members, and it also speaks for 10000 part-time workers. The Act requires that all members of the traditional professions, such as doctors and dentists, belong to separate units, and that all 'new' professionals, such as economists, sociologists and the like, make up one bargaining unit. These new professionals are members of the Quebec Government Professional Union (or the *Syndicat des professionnels du gouvernement du Québec* or SPGQ); their number is about 6000. Small numbers of teachers and peace officers, as well as liquor-board employees, have separate unions. In 1983, all of these public servant unions were unaffiliated.

The regrouping of all of these syndicates and local unions into a Common Front is both the strength and the weakness of the Quebec public sector unions. Roughly speaking, the public sector numbers 300000 workers, and the Common Front includes 200000 of them. But in such a large group, interests differ so greatly that solidarity is hard to maintain. In many cases, mistakes on the part of the government have been the most powerful force behind the merging of groups with interests as divergent as those of professionals, school teachers, and general hospital employees.

It would be too long and too cumbersome a task to describe here the various structures that each central body has put in place to ensure vertical communication during the entire process, from the drawing up of union demands to the ratification vote; suffice it to say that information must be carried back and forth continuously. Although their activities culminate in the bargaining period, all of these structures continue to operate, to a lesser degree, while the agreements are in force. Two-way consultation takes place continuously, especially when problems arise, as in the case of more serious grievances.

Management Structures

Individual hospitals and the various school boards still remain the direct employers of the many employees involved. Because the bargaining process is so highly centralized, their input has to come through their own management organizations. In the social affairs sector, there are several different management organizations representing hospitals, care centres, community services, social services, and private hospitals. The Quebec Hospital Association is the most important of these organizations, and usually speaks for the entire social affairs management. The school boards are organized along different lines. There are two different school-board associations: the Quebec Federation of Catholic School Boards (QFCSB) is made up of the Catholic school boards, both French and English, and the Quebec Association of Protestant School Boards (QAPSB) is made up of the English-speaking Protestant school boards. There is also an Association of Quebec Colleges.

For bargaining purposes, a management bargaining committee is set up in each sector for every round of bargaining. Each of these committees speaks for both the government and the management group involved. The rules according to which the committee will operate must be approved by the government in each round of bargaining. These rules establish, for instance, the number of persons to represent the government department and the management organizations concerned, as well as who will speak on each of the subjects to be negotiated. There are four such management bargaining committees: one for the social affairs sector, one for the Catholic school boards, one for the Protestant school boards, and one for the colleges. (The other sectors do not need such committees: management is more definite and localized in the case of the government itself, Hydro-Québec, and other government agencies.)

Each management association has its own structure and system by which to ensure communication between its high-level representatives and its member institutions. The degree of efficiency varies greatly from one group to another and even from one region to another. In contrast to what happens within the unions, channels of communication within management structures do not seem to operate as constantly or as effectively. One reason for this difference might be the presence of the other partner, the Department of Social Affairs or the Department of Education, according to the case. The member institutions thus have a dual loyalty to preserve, and these two loyalites do not necessarily coincide in all instances. For example, it might be more important to a local director that he maintain a good image in relation to the department than that he act in every instance as a responsible manager and a devoted association member.

Government as Management

For the first two rounds of bargaining, no specific provisions were laid down regarding the role government was to play in the bargaining process. Separate legislation, adopted for the 1971-72 and 1974 rounds, established a definite structure for collective negotiations in the education and hospital sectors.[24] Basically, these two laws stated that, through their respective representatives, the Minister of Education and the Minister of Social Affairs "shall of right be a party to the negotiation" of the clauses that were considered as matters for provincial bargaining. Because of the moneys involved, the agreements had to be approved by the Minister of Finance, who became in practice the chief negotiator for the government. For the fifth round of bargaining, legislation,[25] which is still in effect today, established the rules for the management bargaining committees already described, thereby clarifying the respective roles of the institutions' representatives and of the government departments. The law also stated that the Treasury Board would grant mandates to management bargaining committees. Consequently, the President of the Treasury Board became the chief negotiator for the government.

In management bargaining committees, tensions have always existed between hospital and school-board representatives and government representatives. In general, the government is more interested in the monetary clauses and is relatively relaxed about the non-monetary clauses, while representatives of local management take the reverse position. In the 1979 round, for instance, the government more or less accepted the proposal of the unions in November, and imposed the *status quo* on all other clauses. As a result, management was unable to modify contract language as it wished. This basic dilemma is a pervasive one, and it is reflected in disagreement among management representatives.

The Bargaining Tables

There were, during the three rounds of public sector bargaining in the 1970s, three levels of bargaining. These consisted of a central table, where monetary items were bargained for the entire public and parapublic sectors, twenty or thirty sector tables, where the rest of the provincial agreements were bargained, and, finally, local and regional tables, where adjustments to the provincial agreements or minor points left to be bargained locally were settled. However, this is too sketchy a description to be accurate; it must be qualified in many ways.

Strangely enough, the most important and far-reaching table, the central table, is not mentioned anywhere in the legislation. Although it has been operating since the third round in 1972, the first written agreement referring to it came in May of 1979. The main subjects discussed at the central table were wages, cost-of-living allowances, and major benefits such as employment security and maternity leave. This arrangement has contributed to a certain disregard for non-monetary clauses, which were bargained at the thirty-odd sector tables, to be described later. As in most bargaining situations, once wages and wage-related issues are settled, it is difficult to maintain interest in the other clauses. Thus, the so-called 'sector tables' are the core of the Quebec public sector bargaining process, for that is where the provincial agreements — except for monetary clauses — for the various groups involved are bargained. There are thirty or forty such tables, depending on whether various public servants are included.

Among public servants, there are tables for each certified unit, including a very large one for the Quebec Civil Servants' Union and smaller ones for the other groups. (See Table 7-3.) The social affairs sector is divided into three basic categories: general employees, nurses, and the professional and technical employees. The Act provides that each group of employee associations has the right to represent its various members. In practice, this means that the union decides either to form a table by itself or to join with another

Table 7-3: *Bargaining Units in the Quebec Public Sector, 5th Round: 1978 to 1980*

Group or Category		*Affiliation*	*No. of Certified Units*	*No. of Employees Covered*	*Collective Agreement Expiry Date*	*New Collective Agreement Date of Signing*[a]
A. *Civil Service*						
General employees:	white-collar	Ind.	1	25000	30 June '78	21 Jan. '80
	blue-collar	Ind.		10000	30 June '78	21 Jan. '80
	part-time;	Ind.		10000		
	all 'new' professionals	Ind.	1	6500	30 June '79	8 Oct. '80
	doctors, dentists, etc.;	Ind.	4	200	30 June '79	10 Mar. '80
	teachers	Ind.	1	475	30 June '78	25 Apr. '80
	all 'quasi-police'	Ind.	1	2500	31 Mar. '81	
				54675		
Provincial police:		Ind.	1	4000	31 Dec. '80	
Cadres:		Ind.				
B. *Government Agencies*						
Liquor Board:	store and office workers;	Ind.	1	1500	30 June '78	28 Oct. '79
	warehousemen;	Ind.	1	1000	30 June '78	28 Oct. '79
	technical and professional employees	Ind.	1	150	30 June '78	

Hydro-Québec:	craft workers;	QFL	1	5500	31 Dec. '78	18 Dec. '79[b]
	technicians;	QFL	1	1500	31 Dec. '78	18 Dec. '79[b]
	office workers;	QFL	1	4000	31 Dec. '78	18 Dec. '79[b]
	engineers	Ind.	1	800	31 Dec. '79	19 Dec. '80
				14450		
C. *Hospital, Health and Social Services*						
General employees:	(white- and blue-collar)	CNTU	354	63000	30 June '79	27 Mar. '80
		QFL	290	21000	30 June '79	27 Mar. '80
		Other	36	6000	30 June '79	27 Mar. '80
			680	90000		
Nurses:		CPHO	190	23000	30 June '78	16 Jan. '80
		CNTU	18	1000	30 June '79	27 Mar. '80
		Other	32	7000	30 June '78	27 Mar. '80
			240	31000		
Professional and technical employees:		CPHO	317	3300	30 June '78	16 Jan. '80
		CNTU	132	3300	30 June '79	27 Mar. '80
		Other	22	500	30 June '79	27 Mar. '80
			471	7100		

Table 7-3 (cont'd)

Group or Category	*Affiliation*	*No. of Certified Units*	*No. of Employees Covered*	*Collective Agreement Expiry Date*	*New Collective Agreement Date of Signing*[a]
D. *Public Grade Schools and High Schools*					
Teaching staff:					
catholic school boards, French	QTC	198	65 000	30 June '79	26 May '80
catholic school boards, English	PACT	20	3900	30 June '78	20 Mar. '81
protestant school boards, English	PAPT	27	6800	30 June '79	22 May '80
		245	75 700		
Non-teaching professional:					
catholic school boards, French	QTC	142	1800	30 June '79	12 June '80
catholic school boards, French	Other	151	2000	30 June '79	12 June '80
protestant school boards, English	Other	4	25	30 June '79	12 June '80
		297	3825		
Support employees: (white- and blue-collar)	CNTU	116	9600	30 June '79	7 May '80
	QFL	63	6300	30 June '79	10 Dec. '81
	Other	74	5500	30 June '79	28 Apr. '80
		253	21 400		
E. *Colleges*					
Teaching staff:	CNTU	36	8500	30 June '79	23 Apr. '80
	QTC	6	1900	30 June '79	26 May '80
		42	10 400		

Non-teaching professionals:	CNTU	20	300	30 June '79	28 Apr. '80
	QTC	19	300	30 June '79	28 Apr. '80
	Ind.	2	100	30 June '79	
		41	700		
Support employees: (white- and blue-collar)	CNTU	30	3000	30 June '79	23 Apr. '80
	QFL	5	400	30 June '79	23 Apr. '80
	QTC	7	950	30 June '79	26 May '80
		42	4350		

Sources: Conseil d'information sur les négociations dans les secteurs public et parapublic, Secteur public et parapublic, négociations entre syndiqués et patrons: où vous situez-vous? Montréal, CINSPP, 1979; *Rapport de la situation des négociations dans les secteurs public et parapublic, au 30 juin 1979*, CINSPP, 1979.

Notes

a. All collective agreements expire 31 December 1982.

b. Collective agreement imposed by Bill 88, adopted and assented to on 18 December 1979.

group. In each group or category, there is one table, usually the one representing the greatest number of people, which sets the pattern for bargaining. For instance, when the Federation of Social Affairs has settled on a proposed agreement for its 65000 general employees, the other groups can obtain other provisions only on very minor points. In fact, collective agreements signed by different unions for the same employee categories are almost identical. The situation is much the same for the public school teachers. Once an agreement has been struck with the Quebec Teachers' Congress, which represents 65000 francophone Quebec teachers, the others can do little else but follow suit. The arrangement is the same for the other school-board employees and for college employees.

The allocation of bargaining-agenda items between the provincial sector table and the regional or local tables is of importance. In the third and fourth rounds, the matter was left to the parties, and if they were unable to agree, the government would decree which matters would be delegated to each level. There was a tendency to retain all matters of significance at the provincial level. Under the current law, adopted in 1978, everything is presumed to be of a provincial nature unless the parties agree to transfer the issue to the regional or local level. In practice, some matters were transferred to local and regional school boards, in accordance with principles established at the provincial level. For the hospitals, everything was bargained provincially, with the possibility of local arrangements within the agreed provisions; for example, the provincial agreement determined which categories of hospital employees would wear uniforms, but the style and colour of those uniforms was determined at the local level.

Local bargaining, even when restricted to minor points, can still raise difficulties. An example occurred in 1980. After the school boards and the teachers' unions had completed provincial negotiations following a strike in January and February of 1980, some local groups were still bargaining in October on such local matters as the distribution of the work-load among the teachers involved. There were strikes in at least eight areas of the province, and in some cases, classes had not even effectively started by late October. The government enacted special back-to-work legislation, which also imposed binding arbitration.[26]

Government agencies, like Hydro-Québec and the liquor board bargain by themselves. The management bargaining committees o these agencies must clear their positions in advance with the Treasury Board. The employees in these agencies have been in and ou of the Common Front over the course of the decade. After the 197 experience, the tendency was for them to remain out of the Common Front, but the 1979 round brought them closer to joining it again. In fact, the bargaining process for most of the liquor-board employees was parallel to that of the Common Front: the employees, who had begun negotiations one year earlier, settled almost at the same time, on 28 October. Hydro-Québec employees, for their part, struck during November 1979 and were ordered back to work in mid-December by special legislation.[27]

The hypercentralized structure of bargaining described in the preceding pages has been set up by successive governments, initially under the pressure of hospital employees' unions. One question remains to be discussed: what results have been obtained through this process? That is, what kind of benefits did it bring in, and to whom?

The Bargaining Outcomes

The outcomes of such a hypercentralized system of public sector bargaining are multiple and complex. Their different aspects are likely to be viewed differently by the various groups affected. Among these are primarily four groups: the employees concerned, as well as their unions; the direct and immediate management of the institutions involved; the government itself; and the public.

Benefits for the Employees

Quebec's system of public sector bargaining has been highly beneficial for all of the employees involved, especially for those in the lower-paid categories. The various rounds of the 1970s are each remembered by the basic wages for the lower-paid employees that the unions were able to obtain. Although there has been some delay, the basic minimum wages requested by the unions have been obtained in all three rounds. The goal for the third round, in 1971-72, was the achievement of a weekly basic wage of $100 for all public sector employees. The objective was not obtained in the first year, but was achieved as of 1 July 1973 or 1974, according to the job categories involved. In the following round, the objective was $165 a week, and in the fifth round it was $265. The Minister of Finance had declared that the Quebec government did not have the ability to pay such wages, and that they were out of line with the general minimum wage in Quebec; nevertheless, the demand was granted, in November 1979, for the last year of the agreement. In the ten-year period from 1971 to 1981, the increases totalled approximately 250 per cent. During the same period, average earnings in Canada increased 170 per cent and the Consumer Price Index increased by 150 per cent.

The other major economic benefit was a lucrative cost-of-living adjustment (COLA) provision. In 1972 it was granted in the form of a lump-sum payment, calculated as a percentage of the wages of each employee. At the beginning of the next bargaining round, the amount corresponding to the final COLA adjustment was integrated into the wage scales. Bargaining for other improvements and a new COLA clause began on such a corrected basis. This clause had no cap to the adjustment formula and granted full protection. As a result, the Minister of Finance, Jacques Parizeau, announced at the beginning of the fifth round that the COLA clause could not remain as it was. He even hinted that the clause might disappear entirely. It did not do so, but a new clause, the 'Parizeau formula', appeared in all of the 1979 agreements. In effect, the Parizeau formula provides fully indexed wages for the lower-paid groups, and is less favourable to higher-paid employees. In terms of the entire decade, the various COLA clauses have been extremely beneficial to all public sector employees.

The numerical and political importance of the CNTU-affiliated hospital employees is so great that their representatives have restrained increases in the higher salaries. This restraint has been achieved in two ways. First, the direct increases (in contrast to those resulting from the COLA provision) have always been proportionately greater for the lower categories. Secondly, the COLA clauses adopted in 1979 again favoured lower-paid employees, further compressing the wage differential. This caused animosity towards the CNTU among the higher-paid employees — especially the teachers and professionals — and provoked tension among the members of the Common Front.

Another major gain, obtained in 1972, was the life-time guarantee of employment after a minimum of two years of service. That is, after two years of service, the job or the wages are guaranteed. The employment-guarantee formula of 1972 required that laid-off employees would receive priority for any available and comparable job in the same sector (that is, social affairs or education), first in the same locality and then, if necessary, in the same region or area, and finally, in the whole province. In 1979 the obligation of an employee to accept an available and comparable job was limited to those jobs within the geographic area determined by a fifty-kilometre radius from the institution where he or she was working initially. While awaiting a replacement, the employee continues to enjoy all the contractual fringe benefits, including the cost-of-living wage adjustment.

Maternity leave has been included in most public sector contracts, at least since 1966, at which time it was offered without pay. The value of the provision then was to guarantee re-employment for a woman after her leave. The first important change came after Unemployment Insurance was granted for such leaves. In the 1976 contract, women were granted full pay during the two-week waiting period required by the Unemployment Insurance Commission. But the greatest series of parental benefits was obtained in 1979, when a two-year leave of absence was introduced; this leave was granted without pay, of course, but it included a guarantee of reinstatement after this period. A variety of other advantages related to child-bearing or adoption was also granted at the same time.

The preceding paragraphs provide a description of some of the benefits that centralized collective bargaining has obtained for public sector employees. On the negative side could be listed the always-greater distance that is growing between the individual employee in his local union and the decision-making level, especially within the collective bargaining process. Many information and communication schemes were developed by the various unions in an effort to counteract this problem, but the members are still remote from the locus of decisions.

Effects on Employers

The balance sheet for the effects of bargaining on public sector employers, such as hospital directors and members of school boards, is much more negative than positive. One advantage for them — if one wishes to put it that way — is the fact that they no longer need to care about the process. But the advantages end there, more or less. All hospitals and all school boards, whatever their size and their location, are bound to operate by exactly the same rules, namely, those contained in the one provincial agreement.

The distance between local administrators, like the director general of a hospital or a school board, and the provincial associations of hospitals or school boards is just as great as it is within the unions, if not greater, for local directors have lost all control over the collective bargaining process. Even the administration of provincial agreements at the local level suffers. Within the unions, local representatives tend to look after grievances, settle them to their advantage, and thus prepare for the following round of bargaining. Government and the associations tend to leave each local management team wholly responsible for the application of the agreement. This has caused local administrators to concede almost any tolerable request on the part of a local union, in order not to cause trouble or call to themselves the attention of the Minister or the administrator of the department involved. This attitude has strengthened the power of the unions to an almost incredible extent in certain cases. Thus, illegal strikes during the life of the agreement, in 1977 and 1978, secured benefits that were not included in the provincial agreement, such as additional paid time for local union officials, new provisions regarding job content, and the introduction of union rights that would come into play at those times that the number of jobs is reduced.[28]

Finally, the relationship between the provincial management associations and the two government departments involved was always difficult. The type of arrangements within the management bargaining team, which was established by Bill 55 in 1978, was an improvement over the previous situation. This Act provided for a division of responsibilities, which has granted association representatives a greater say in the determination of non-monetary matters contained in collective agreements. But even with this arrangement, there is a tendency, which is probably inevitable, for government representatives to push aside the other management representatives. At the bargaining table, monetary items tend to be considered more important, and the more technical managerial problems are confined to the background. The clearest example of this occurred in the 1979 bargaining round discussed previously.

The Impact on the Government

Government itself suffered serious difficulties as a result of this hypercentralized system of collective bargaining. Perhaps the most dramatic effect is that every government has lost power after concluding two rounds of bargaining with its employees. It is always treacherous to attribute the fall of a political party to a single event. But a public sector bargaining round in Quebec has become a major event in the political life of the province. In addition, the public itself is involved because strikes have always accompanied such bargaining, and the public always has to foot the bill for the agreement. Thus it would be very unlikely that this reality would not be an important factor in any citizen's decision to vote for a given political party. In any event, no political party has survived more than two rounds of bargaining since the introduction of the system in 1964-65. When the *Union nationale* government of Daniel Johnson was elected in 1966, it immediately had to face the first provincial hospital strike. During the second round of bargaining in 1968, Johnson died suddenly. He was replaced by Jean-Jacques Bertrand, who, in the 1970 election, was defeated by the Liberals of Robert Bourassa. Following the 1972 round of bargaining, Bourassa not only survived the 1973 election, but swept almost all of the seats in the Assembly. During the fourth round, from 1974 to 1976, the government was plagued by rotating strikes, guerilla warfare, and pressure tactics. Bourassa finally had to impose severe penalties, especially on hospital employees, and in November 1976, he lost the election to the Parti québécois. In 1981 the PQ government again won the election after the fifth round of bargaining, in which it had granted the public sector unions most of their demands in order to clear the way for the forthcoming referendum. If the trend continues, the 1982 round of bargaining will play the role of the executioner of that party.

Another effect of public sector bargaining is that the government was obliged in every round in the 1970s to adopt special legislation to order the strikers back to work. In April 1982, special legislation was adopted in order to end the unlimited general strike of the Common Front,[29] and later that same year, another special law forced Hydro-Québec employees to maintain essential services.[30] During the fourth round of bargaining, an Act had to be passed regarding essential services in hospitals and other social affairs institutions.[31] A few months later, a special law was enacted to suspend the right to strike among teachers and school-board employees.[32] A few months later still, the situation in the hospitals was so grave that another special law was necessary in order to end a prolonged strike in that sector.[33] Even the PQ government, which had declared itself to be favourably biased towards unions and workers, had to turn to special legislation to end the fifth round of bargaining.[34] Some months later, the same government had to pass legislation to order Hydro-Québec workers back to work,[35] and it was almost a year later that another special law had to be adopted to end strikes against some local and regional school boards in different areas of the province.[36]

All of these cases of special legislation had at least two effects: the first was to undermine the ability of the Labour Code and its provisions to deal with public sector disputes, and the second was to weaken the authority and credibility of the party in power at the time. Even though the different governments have generally conceded public sector union demands, no political party has come out a winner in these disputes. Moreover, not one has escaped the sweeping accusations from the various union groups involved.

The Impact on the Public

Contradictory statements have been made regarding the effect of public sector bargaining on various aspects of society and on individuals' lives. Some commentators have stated that there were no casualties and no serious effects on anybody's health; others claim that people not only suffered, but that some died from the lack, or late delivery, of health services as a result of strikes, slow-downs, and other pressure tactics. The sheer numbers of man-days lost in these public sector strikes give an idea of the magnitude of the effect.[37] Since the mid-1960s, the number of strikes in Quebec has increased greatly. The usual number of man-days lost in each year before and after 1970 hovered at about 1000000; in 1972, however, 2000000 man-days were lost in the public sector alone, bringing the total for Quebec far above the 3000000 mark. In 1976, work stoppages in the public sector amounted to over 1400000 man-days lost. In 1979, the number was close to 1 000 000 man-days, and in 1980, close to 1500000. Again, these figures refer only to the public sector. They represent between 40 and 65 per cent of the total man-days lost in Quebec during the years cited.

Common Front strikes are becoming a recurrent collective trauma. Except for a series of articles, entitled "A Wounded Society" and published in a Montreal daily newspaper in 1979,[38] very little has been written on the subject; even less was done by way of in-depth study or inquiry. Everybody has his favorite stories of what happened in the hospitals, in the schools, or in government offices during these strikes; some of the stories have happy endings, while others end quite differently. One attitude that does seem to be becoming more and more common is the dread of many groups in society — especially the elderly, but also younger people, such as pregnant women — of the idea of having to be hospitalized during such periods. The most severely affected of all are the chronic patients, who panic at the notion of having to suffer the occurrence of more strikes in their hospitals. Even when strikes end, poisoned relationships linger on between patients and striking employees, and among the management personnel who filled in and the volunteer helpers who were regarded as strike-breakers.

The social and personal implications of public sector bargaining and strikes are much more severe and pervasive than politicians are ready to admit. This is obviously a very emotional subject, and one can easily exaggerate it in one direction or the other. But in fact, very little is known of this aspect of strikes. It is hard not to think that a relative black-out may serve the interests of some of the groups involved, and these groups do not all sit on the same side of the bargaining table.

The Outlook

Given its background, one can hardly be optimistic for the future of public sector bargaining. Yet, a few comments may still be appropriate.

The 1982 round seems to be headed for a major confrontation, equivalent to that of 1972, if not worse. The government has almost ensured that result. First, during the 1979-80 round, it arranged for all of the collective agreements in the public, parapublic, and peripublic sectors to expire simultaneously on 31 December 1982. A single expiry date is an invitation to a strong common action. Secondly, the National Assembly passed three pieces of legislation before its summer recess on 23 June 1982. These are Bill 68, which restricts the existing benefits of the public sector pension plans, especially with regard to cost-of-living adjustments, Bill 70, which orders a wage roll-back of close to 20 per cent to occur from 1 January to 31 March 1983, and Bill 72, which tightens the mechanism to ensure that essential services are provided in the case of work stoppages. All three of these bills have raised the anger of public sector employees, but the roll-back of wages will be the most likely cause of confrontation.

A somewhat deeper analysis reveals that the confrontations that have occurred resemble anything but an exercise in collective bargaining. They do not consist of discussions on the distribution of future rewards flowing from an industrial endeavour of two cooperating parties; rather, they comprise a fairly fierce battle, complete with hostage-taking, to obtain a greater share of the tax dollars of the entire population. Responsible government, accountable to the public for expenses and taxes in the purest British tradition, is incompatible with public sector bargaining, at least when it has reached the degree of centralization it now has in Quebec. If the system had functioned the way it was designed to, the provincial budget and the level of taxes would have been decided at the bargaining table by the bargaining agents, and not in the National Assembly. However, the National Assembly has often been called upon to pass special legislation; the number of these interventions gives additional support to the argument that public sector bargaining is, in practice, impossible. Public sector bargaining is, at the bottom line, a political confrontation.

Some indices clearly show that the political aspect of public sector bargaining is really the name of the game. More and more, for instance, union demands and government counter-proposals are revealed to the press at the same time they are presented to the other party, if not before. These demands and counter-proposals are then debated everywhere from the National Assembly to radio hot-lines, and these debates are often more intense than those at the bargaining tables themselves. In addition, pages of advertisements are bought in major daily newspapers during the bargaining period, especially as the final stage approaches. Most impressive of all, perhaps, is the fact that in October 1982, when the government offers were tabled, the press was locked in a room for several hours, just as it is when the budget comes down.

In public sector bargaining, various rights and mechanisms that have been devised for use in other environments have been transposed into a situation in which they are not conducive to effective results. Various pressure tactics, including strike action, but also certain tactics that can be even more serious for weak sectors of the population such as the aged and the sick, are increasingly convincing the general population that the right to strike has no place in the public sector. Some government Ministers even venture to say that the current system cannot be carried on any longer. One may wonder if collective bargaining in the public sector could ever succeed at such a highly centralized level. Yet the logic of the system itself calls for ever-increasing centralization. The other Canadian provinces are making their way towards that goal and, in a sense, Quebec has reached the point at which those provinces' formulas are aimed. At such a level, not only the right to strike, but even the right to bargain collectively, at least on monetary items, could eventually be denied.

Another way out of the current situation in Quebec is possible, and if the past is any indication of the future, this is the option most likely to be realized. In all preceding rounds, the unions have, in the end, obtained all they asked for. It could well be the same this time. The only difference — and it is a major one — is whether Quebec finances can still withstand such give-aways. Will the result, then, be the same? The answer to that question lies outside the scope of this chapter.

Postscript

When this chapter was written, the 1982 bargaining round was still in progress. It has proved to follow a path between the two extreme scenarios described in the preceding paragraphs.

The major facts are as follows.[39] In early April 1982, the Minister of Finance stated that a 'hole' in public finances, amounting to $700 million, had to be filled; one way of doing so was to cancel the forthcoming wage increases of public sector employees, which represented $700 million in total. A few days after the Minister's statement, the President of the Treasury Board asked the public sector unions to reopen the collective agreements in order to discuss these increases, which were slated for 1 July and 31 December (the expiry date of the agreements). A condition was attached to the request: if the unions refused to reopen the agreements, the government would have to eliminate 17400 of its employees' jobs. Despite this pressure, the union refused to co-operate with the request, and the government decided to try a different course. Bill 70 was introduced to extend all public sector agreements for three months, until 1 April 1983. During that period, wages were to be rolled back an average of 18.8 per cent for all employees, although lower-paid employees would face a smaller cut in their wages.[40] The operation would result in a reduction of $521 million in total public sector wages, a recuperation which was considered essential and not negotiable. But the door was left partially open: if, in the meantime, a group's bargaining agent negotiated successfully with the government over its next collective agreement, Bill 70 would not apply to that particular group.

Bargaining for the future collective agreements, to cover the period from 1983 to 1984, was supposed to begin during the summer of 1982. There was little progress until the second half of September, when various parties presented their tentative positions. Common Front unions asked for 11.9 per cent increases to be granted in 1983, and for full cost-of-living adjustments and participation in collective enrichment to occur in the two succeeding years. The Quebec Teachers' Union, which had just re-elected Yvon Charbonneau as its president, insisted on job security, and direct government employees demanded comparable increases, ranging from 10 to 22 per cent, according to their job classification, for the first year, to 10 per cent for both the second and third years of the agreement.

On 21 September, the government revealed its own position: a freeze on wages for 1983. Later, a graduated increase would be granted, which allowed for small increases for the lower-paid groups and no increase for the higher-paid groups, and which was based on the June 1982 rates; a 5 per cent increase was granted for 1984 and a 3 per cent increase for 1985. Over the three years of the contract, the parties were separated by a margin of four billion dollars. When the freeze was announced, the government also mentioned that it planned to modify employment-security provisions. Government employees would have to accept assignments of any type after six months on the waiting list, including those beyond the fifty-kilometre radius. Employees in the Federation of Social Affairs would be subject to a greater number of transfers within the system, and teachers would have to accept a somewhat increased work-load. This last point has infuriated the teachers and increased their degree of mobilization.

In October, votes were taken in the different union locals, with various results. Some locals gave their leaders a full mandate for unlimited strike action in November; this was called the 'autumn strategy'. However, in view of the government's steadfastness, the unions' position began to soften during November. The government employees' union was the first to propose a wage freeze, which was to be based on wage levels as of 31 December, not June, as the government had proposed. This proposal was rejected by the government. Common Front leaders scaled down their initial demand of an 11.9 per cent increase to an average of 8 per cent, to be granted in three stages during the year (2.8 per cent, 4.1 per cent and 3.9 per cent respectively). The Premier himself gave some indication that he hoped agreements might be reached in order to avoid the drastic implementation of Bill 70.

On 10 November, public sector unions staged a twenty-four-hour warning strike. While most teachers did go out on strike, 50 per cent of school-board support employees remained at their jobs. Fifty per cent of the Federation of Social Affairs institutions were affected by the walk-out, but all managed to survive it without too much difficulty.

Bargaining continued throughout the fall. Although agreement was reached on a few minor points, not much progress was made on the basic issues. On 18 November, the Premier made a major declaration before the National Assembly: if new strikes occurred, or if a settlement was not reached within three weeks, the dispute would be resolved by way of decrees, in lieu of collective agreements, for the period from 1983 to 1985. Nevertheless, strike votes continued, albeit with mixed results. The Federation of Social Affairs had threatened to call a general and unlimited strike in November, and it had a mandate to do so. After postponing the date several times, it finally called off the strike in order to rally with the rest of the Common Front and to avoid giving the government an excuse to impose its decrees. This marked the end of the autumn strategy; the unions were now looking for a winter strategy. On the same day that the strike was called off, the government tabled its final offers at the central and at other tables.

Following the tabling of these offers, the public sector unions consulted their members regarding their willingness to co-operate with the government. However, this process could not be completed before the moratorium imposed by the Premier ended. Thus, on 9 December, a new bill was tabled in the National Assembly: Bill 105 gave the government the power to adopt decrees that would serve as collective agreements for public sector employees during the following three years.[41] In the meantime, the teachers' union had obtained a 75 per cent vote in favour of a general and unlimited strike. But all action was postponed to late January, when most of the decrees would already be in application.

On 10 January, 800 delegates of the various Common Front unions decided, apparently with some difficulty, to stage a graduated walk-out, in which various groups would go out on strike on different days. Later that month, the Premier met with the presidents of the three central labour bodies. Following these meetings, the union leaders took different positions: the CNTU and QFL presidents said they would make no recommendation to their members, while the CEQ's president, Yvon Charbonneau, declared that he would order his members to strike.

On 26 January, CEGEP teachers went out on strike, and two days later they were followed by the public school teachers. The CEGEP walk-out was successful, but there was much confusion in the various schools throughout the province; for example, the CEGEPs were closed, while only half of the public schools were closed. On the night of 28 January, an agreement in principle was reached between the government and 15 000 nurses, who were not part of the Common Front. The agreement included technical corrections to their decree and minor amendments on a number of points; the remainder of the clauses were not changed. This was the first break in the solidarity of the public sector unions' opposition to the government, and it was to be followed by many others.

On 31 January, the members of the Federation of Social Affairs, including most hospital workers, were to strike, although they lacked a strong vote to back their decision. At the same time, discussions with government representatives achieved an agreement in principle in the final hours before the strike. As a result, the strike order was suspended. The agreement was later confirmed by the Bargaining Council in a split vote of 18 to 15, but the intermediate level of decision, the so-called 'Federal Council', rejected the agreement by a proportion of 72 per cent. (The Federal Council is made up of 800 members from all of the syndicates, each of which sends one or two representatives, depending on its size.) A new strike was thus announced for the following week. During this time, votes taken at the level of the local syndicates reversed the decision of the Federal Council: only 20 per cent of the total membership voted for the strike, and of those who voted, 55 per cent rejected the strike as the means by which to continue the fight with the government. Federation representatives returned to the table to finalize the agreement tentatively accepted two weeks earlier.

In the meantime, the union of the professional employees, the SPGQ, returned to work on the basis of a new offer. As a result, the teachers, on strike since late January, were virtually isolated. However, the teachers overwhelmingly rejected a government offer to spread over three years the application of certain provisions of the decree. Several other meetings followed, but the Minister of Education refused to bargain over the teachers' main point of contention — their work-load — before the teachers returned to work, since they had already been out on strike illegally for three weeks.

In an attempt to break the impasse, the National Assembly was convened to enact a new bill embodying extremely severe penalties. Bill 111 was tabled on 15 February. Even during the day on which it was debated, discussions with the parties continued, in which a number of suggestions were made, including the establishment of a parliamentary commission and a mediation commission. The National Assembly suspended debate on the evening of 16 February, in the hope that an agreement could be reached. When the teachers' union refused to give its approval, the bill was enacted early on 17 February. It ordered teachers back to work that day. Failing their compliance, penalties of increasing severity would apply: besides receiving increased fines, a local union could lose its dues check-off, and the teachers themselves could lose substantial portions, or even all, of their seniority.[42] That same morning, 30 per cent of the teachers were in class. During the weekend, the teachers' union declared a three-week truce, to last until 14 March, and the elementary and secondary school teachers voted by a margin of 83 per cent to return to their classrooms on 21 March. Because the disputing parties could not even talk to each other, a parliamentary commission was finally convened to air the entire debate in public.

The parliamentary commission met from 2 March to 7 March. Yvon Charbonneau, who appeared before the commission, suggested mediation on working conditions, specifically job content and work-load, and he abandoned all demands relating to wage requirements. His idea was accepted, and representatives from all parties began conciliation. During this time, the teachers' union had voted to extend the truce, which was to have ended on 14 March. Three weeks after conciliation began, the chairman, Raymond Désilets, gave his report. The commission of the primary and secondary school teachers rejected the report, as did the *Alliance des professeurs de Montréal*. But the CEQ as a whole was split. All of these events occurred in early April. One week later, CEQ representatives, in the name of their members, accepted the recommendations of the Désilets report, but only for the first year of the collective agreement (or decree). Thus ended, on a less than definite note, the sixth round of public sector bargaining in Quebec. It was mid-April 1983, exactly a year after the Quebec government had asked to reopen the collective agreements then in force.

This round of public sector bargaining exhibited both similarities to, and differences from, the preceding rounds. Like the others, it had its share of illegal walk-outs, special legislation, back-to-work law, and litigation of all types. However, there was one significant difference: there was no possibility of a legal strike during this round because the decrees, which were to serve in lieu of agreements, were adopted before the previous agreements expired.

As usual, mistakes were made, and opportunities to settle were missed by all parties involved. One can argue in retrospect, of course, that the logical thing for the unions to do would have been to accept the reopening of the collective agreements in the spring of 1982 and to forgo the increases that had been written into the previous agreements. After all, that is what they were finally compelled to accept under Bill 70. Until the final steps of the process, the entire union strategy was geared to fight that one piece of legislation; the slogan remained all along, "Repeal Bill 70". But was that possible? It has been emphasized by many, ever since the beginning of this round of public sector bargaining, that the unions failed to realize that circumstances had changed since the preceding rounds. The unions miscalculated the government's real position on monetary questions and the ineffectiveness of traditional techniques within that context. In short, mobilization and confrontation could not give the same results as they had previously.

Another possible subject of miscalculation, this time made by parties on both sides of the dispute, was the work-load of the teachers. At the beginning of the round, the teachers apparently thought that the government would not attack their acquired rights on this point. When the government tabled its propositions in September 1982, the mention of an increased work-load served as the strongest argument around which to mobilize all teachers, both young and old, dedicated and undedicated, and those of widely different political perspectives. From then on, the teachers' union returned many more solid strike votes than any other group, and consistently voiced strong opposition to every government request on any subject, at least until the passage of Bill 111. In order to reach final conciliation, the government itself had to give up substantial ground with regard to its original position on the teachers' work-loads.

There were also the frequent overtures that remained unanswered or were flatly refused. From another viewpoint, it was suggested more than once by various citizens' groups that conciliation or mediation would be an appropriate tool with which to resolve the conflict. The government was initially opposed to the proposal, but was forced to accept, in the final stage of the process, at least the basic issue of the teachers' work-loads.

The internal divisions within the union were quite evident during the entire round. The strict adherence to the traditional approach to bargaining may simply reveal that Common Front leaders could not agree on a new and untried formula. Despite many joint discussions held earlier, the Common Front itself was officially formed only on 11 October. Apparently, there were disagreements about whether the autumn or the winter strategy should be selected. The differences in the reactions of the three presidents after the mid-January meeting with the Premier are perhaps the most dramatic example of diverging viewpoints and methods. The meeting was quickly followed by the signing of the first of the 'improved decrees'. Another striking sign of the internal difficulties is the result of the three votes of the Federation of Social Affairs regarding the agreement in principle; these votes revealed a narrow approval by the top echelon, strong rejection by the intermediate level, and substantial acceptance by the rank and file. A similar, but not so clear-cut, reversal occurred among the teachers at the very last stage of the process with regard to the Désilets report.

While this round of negotiations differed significantly from previous rounds in many respects, what should be emphasized is the lack of actual bargaining. In the previous rounds, the government had finally amended its position to match that of the unions on most of their major demands. In this case, the situation was reversed: the government was the real master of the show, and it was the unions that had to relinquish practically all of their initial demands. The government, for its part, hardly moved at all from its own starting position, especially on the issue of rolling back wages. Finally, by adopting Bill 105 and the various decrees before the expiry date of the previous agreements, it has ruled out the possibility of a *legal* work stoppage occurring — if one can still make such a distinction.

The final striking characteristic of the sixth round of public sector bargaining in Quebec was the 'acceleration', so to speak, of the political aspect of the process. The battle of publicity and newspaper advertisements was never so intense and so fully developed. The efforts that were made to obtain the backing of different groups and of public opinion were also a dramatic feature of the episode. But the most fundamental aspect of the exercise pertained to the role of government with respect to public finances. At all stages of the process, it was crystal clear that the tax load of the citizens and the future of many government programs, as well as the level and the basic distribution of the provincial budget as a whole, were at stake, and these were being decided in the discussions.

Dramatizing just a little, one can say that this round of bargaining has, for all practical purposes, buried the Quebec public sector's right to strike, and with it, the right to bargain collectively in the sense in which the term is usually understood in North America. Whether these effects are good or bad for Quebec remains a matter for discussion; the problem lies in the existence of conflicting rights and of varying priorities with regard to them.

Notes

1. H.W. Arthurs, *Collective Bargaining by Public Employees in Canada: Five Models*, p. 170.
2. The Civil Service Act. (Bill 50) L.Q. 1978, c. 15, s.115.
3. Syndicat des fonctionnaires provinciaux du Québec, *Bulletin des membres*, 1,3 (17 octobre 1973), p. 19.
4. An Act to amend the Labour Code. (Bills 59 and 72) L.Q. 1978, c. 52, s. 4 and 1982, c. 36, s. 6–12.
5. L.Q. 1971, c. 12; 1974, c. 8; 1978, c.14.
6. S.Q. 1944, c. 30.
7. S.Q. 1944, c. 31.
8. S.Q. 1964, c. 45.
9. S.Q. 1964, c. 45, s. 99.
10. S.Q. 1965, c. 14.

11. G. Hébert, "Les hôpitaux, les syndicats et l'État".
12. G. Hébert, "Le conflit des hôpitaux et ses implications".
13. G. Hébert, "Les enseignants, les commissions scolaires, l'État et le public".
14. An Act to ensure for children the right to education and to institute a new schooling collective agreement plan. (Bill 25) S.Q. 1966-67, c. 63.
15. G. Hébert, "Le conflit scolaire de Montréal".
16. For all of this section, see references in the bibliography, especially works by J. Boivin and G. Hébert.
17. An Act to ensure resumption of services in the public sector. (Bill 19) S.Q. 1972, c. 7.
18. An Act to ensure the provision of essential health services and social services in the event of a labour dispute. (Bill 252) L.Q. 1975, c. 52.
19. An Act respecting the maintenance of services in the education section. (Bill 23) L.Q. 1976, c. 38.
20. An Act respecting health services in certain establishments. (Bill 61) L.Q. 1976, c. 29.
21. An Act respecting proposals to employees in the education, social affairs, and civil service sectors. (Bill 62) L.Q. 1979, c. 50.
22. An Act respecting remuneration in the public sector. (Bill 70) L.Q. 1982, c.
23. Civil Service Act. S.Q. 1965, c. 14 and L.Q. 1977-1978, c. 15.
24. An Act respecting collective negotiations in the education and hospital sectors. (Bill 46) L.Q. 1971, c. 48, and An Act respecting collective bargaining in the sectors of education, social affairs, and in government agencies. (Bill 95) L.Q. 1974, c. 8.
25. An Act respecting the organization of the management and union parties, in view of collective bargaining, in the sectors of education and social affairs, and in government agencies. (Bill 55) L.Q. 1978, c. 14.
26. An Act respecting certain disputes between teachers and school boards. (Bill 113, assented to 24 October 1980) L.Q. 1980, c. 22.
27. An Act to ensure the maintenance of electrical services and to provide the conditions of employment of the employees of Hydro-Québec. (Bill 88, assented to 18 December 1979) L.Q. 1979, c. 62.
28. C. Gagnon and G. Hébert, *Les grèves illégales dans les hôpitaux du Québec, 1977-1978 : causes et résultats*, p. 80.
29. An Act to ensure the resumption of services in the public sector. (Bill 19, assented to 21 April 1972) L.Q. 1972, c. 7.
30. An Act regarding essential services in Hydro-Québec. L.Q. 1972, c. 9.
31. An Act to ensure the provision of essential health services and social services in the event of a labour dispute. (Bill 253, assented to 19 December 1975) L.Q. 1975, c. 52.

32. An Act respecting the maintenance of services in the education sector. (Bill 23, assented to 9 April 1976) L.Q. 1976, c. 38.
33. An Act respecting health services in certain establishments. (Bill 61, assented to 24 July 1976) L.Q. 1976, c. 29.
34. An Act respecting proposals to employees in the education, social affairs, and civil service sectors. (Bill 62, assented to 12 November 1979) L.Q. 1979, c. 50.
35. An Act to ensure the maintenance of electrical services and to provide the conditions of employment of the employees of Hydro-Québec. (Bill 88, assented to 18 December 1979) L.Q. 1979, c. 62.
36. An Act respecting certain disputes between teachers and school boards. (Bill 113, assented to 24 October 1980) L.Q. 1980, c. 22.
37. Québec, ministère du Travail et de la Main-d'oeuvre, *Grèves et lock-out au Québec*. 1966–1976, pp. 20–23 and 31; 1977, p. 9; 1978, p. 15; 1979, Table III; 1980, p. 17; 1981, p. 14.
38. L. Gagnon "La société blessée". A series of articles published in *La Presse* in 1979. Reprinted as Reprint No. 24 by Université Laval, Département des relations industrielles, 1980, p. 26.
39. This postscript was written according to newspaper reports; official documents such as the decrees in lieu of collective agreements are still unavailable to the public, as of July 1983.
40. An Act respecting remuneration in the public sector. (Bill 70, assented to 23 June 1982.) L.Q., 1982, c. 35.
41. An Act respecting the conditions of employment in the public sector. (Bill 105, assented to 11 December 1982.) L.Q. 1982, c. 45.
42. An Act to ensure the resumption of services in the schools and colleges in the public sector. (Bill 111, assented to 17 February 1983.) L.Q. 1983, c.

Bibliography

Archambault, Jacques and Desrochers, Paul. "La négociation collective dans les secteurs privés subventionnés par l'État, point de vue patronal et point de vue syndical", in *Socialisation et relations industrielles*, pp. 131–58. 18^{e} congrès des relations industrielles de l'Université Laval. Quebec: Presses de l'Université Laval, 1964.

Arthurs, H.W. *Collective Bargaining by Public Employees in Canada: Five Models*. Ann Arbor: University of Michigan-Wayne State University, Institute of Labor and Industrial Relations, 1971.

Beaucage, André. "Idéologie, solidarité et politique salariale : l'expérience des Fronts communs du secteur public québécois de 1971 et 1975". Ph. D. dissertation, Université de Montréal, École de relations industrielles, 1981.

Boivin, Jean. "La négociation collective dans le secteur public québécois : une évaluation des trois premières rondes (1964-1972)". *Relations industrielles* 27 (Octobre 1972): 679–708. Reproduced with variations in *La gazette du travail* 73 (January 1973): 8–25.

Boivin, Jean. "The Evolution of Bargaining Power in the Province of Quebec Public Sector (1964-1972)". Ph. D. dissertation, Cornell University, 1975.

Boivin, Jean. "Règles du jeu et rapport de force dans les secteurs public et para-public québécois". *Relations industrielles* 34 (No. 1 1979): 3–19.

Bolduc, Roch. "Le régime québécois de négociation des secteurs public et para-public. Bilan et perspectives". *Relations industrielles* 37 (No. 2 1982): 403–11.

Bouchard, Lucien. "Le régime québécois de négociation des secteurs public et para-public. À quand la maturité?" *Relations industrielles* 37 (No. 2 1982): 411–20.

Boucher, Bibiane F. and Tourigny, Bertrand. "Augmentation des traitements dans les secteurs public et para-public". *Le marché du travail* 2 (September 1981): 55–63.

Cardin, Jean-Réal. "La nouvelle Loi de la fonction publique du Québec". *Relations industrielles* 21 (No. 2 1966): 251–57.

Cloutier, Richard, Larochelle, Jean and Nadeau, Adrien. "Les méthodes de sélection, telles que perçues par les candidats qui se présentent à des concours à la fonction publique du Québec" in *L'homme et le travail*, pp. 121–29, 18e congrès international de psychologie appliquée, Montreal, 28 July–2 August 1974. Quebec : ministère du Travail et de la Main-d'oeuvre, 1974.

Corporation professionnelle des conseillers en relations industrielles. "Les négociations dans les secteurs public et parapublic". Working Document No. 4. Quebec : CRI, 1982.

Cournoyer, Jean. "La gestion des services et l'action législative". *Quebec/Travail* 6 (April/May 1970): 8–14.

Cournoyer, Jean. "La négociation collective dans les secteurs gouvernemental et para-gouvernemental reconsidérée". *Relations industrielles* 35 (No. 3 1980): 528–33.

Demers, François. *Chroniques impertinentes du 3ème Front commun syndical, 1979–1980*. Montreal: Nouvelle optique, 1982.

Dion, Esther. "La négociation collective chez les fonctionnaires et les enseignants québécois : 1975–1976". *Relations industrielles* 37 (No. 2 1982): 111–68.

Ferland, Gilles. "La politique de rémunération dans les secteurs public et para-public au Québec". *Relations industrielles* 36 (No. 3 1981): 175–98.

Gagnon, Chantal and Hébert, Gérard. *Les grèves illégales dans les hôpitaux du Québec, 1977–1978 : causes et résultats*. Monograph No. 11. Montreal : Université de Montréal, École de relations industrielles, 1982.

Gagnon, Lysiane. "La ronde des bureaucrats" and "La société blessée". *La Presse* (1979). Reproduced as Reprint No. 21. Quebec : Université Laval, Département des relations industrielles, 1980.

Garant, Patrice. "Le droit disciplinaire de la fonction publique". *Relations industrielles*, 27 (No. 3 1972): 151–95.

Garant, Patrice and Berlinguette, Claude. "La fonction publique provinciale : le cadre juridique" in *La gestion des relations du travail au Québec*, edited by Noël Mallette, pp. 535–46. Montreal : McGraw-Hill, 1980.

Gaulin, Robert. "L'expérience de la négociation du front commun des secteurs public et parapublic : une évaluation syndicale" in *La gestion des relations du travail au Québec*, edited by Noël Mallette, pp. 571–94. Montreal: McGraw-Hill, 1980.

Gow, James Iain. "La gestion du personnel dans les ministères du gouvernement du Québec". *Relations industrielles* 29 (No. 3 1974): 560–74.

Hébert, Gérard. "Le Front commun des employés des secteurs public et parapublic québécois — Cadres et déroulement d'une négociation". *La gazette du travail* 73 (January 1973): 26–37.

Hébert, Gérard. "Le conflit des hôpitaux et ses implications". *Relations* 26 (August/September 1966): 244–47.

Hébert, Gérard. "Le conflit scolaire de Montréal". *Relations* 27 (March 1967): 69–71.

Hébert, Gérard. "Les enseignants, les commissions scolaires, l'État et le public". *Relations* 27 (February 1967): 41–44.

Hébert, Gérard. "Les hôpitaux, les syndicats et l'État". *Relations* 25 (November 1965): 314–16.

Hébert, Gérard. "La négociation du secteur public provincial : histoire et cadre institutionnel" in *La gestion des relations du travail au Québec*, edited by Noël Mallette, pp. 547–69. Montreal: McGraw-Hill, 1980.

Hébert, Gérard. "Le régime québécois de négociation des secteurs public et para-public. Réflexions". *Relations industrielles* 37 (No. 2 1982): 420–30.

Hébert, Gérard. "Les relations du travail dans la fonction publique au Québec : situation et orientations". *Relations industrielles* 29 (No. 4 1974): 750–72. Reproduced as Reprint No. 7. Montreal: Université de Montréal, École de relations industrielles, 1975.

Johnson, Pierre-Marc. "Les services essentiels et la dernière ronde de négociation. Bilan et perspective". Speech to the Corporation professionnelle des conseillers en relations industrielles, January 1980. Reproduced as Reprint No. 23. Quebec: Université Laval, Département des relations industrielles, 1980.

Lachapelle, Pierre-Philippe. "Le maintien des services essentiels". *Le marché du travail* 3 (October 1982): pp. 63–67.

Laperrière, René. "La détermination des services essentiels : un préalable nécessaire à l'exercice du droit de grève" in *Les relations du travail au Québec : la dynamique du système*, pp. 121–34. 31ᵉ congrès des relations industrielles de l'Université Laval. Quebec: Presses de l'Université Laval, 1976.

Martin, Yves. "Le cadre juridique de la ronde des négociations collectives de 1979 des secteurs public et para-public : le Rapport Martin-Bouchard" in *La gestion des relations du travail au Québec*, edited by Noël Mallette, pp. 590–608. Montreal: McGraw-Hill, 1980.

Nadeau, Adrien. "La conception de l'emploi dans la fonction publique du Québec". *L'homme et le travail*, pp. 111–20. 18ᵉ congrès international de psychologie appliquée. Montreal 28 July–2 August 1974. Quebec: ministère du Travail et de la Main-d'oeuvre, 1974.

Parent, Raymond. "Le syndicalisme des fonctionnaires provinciaux". *Socialisme* 67 (February/March 1967): 65–78.

Québec. Commission d'étude et de consultation sur la révision du régime des négociations collectives dans les secteurs public et parapublic. *Rapport Martin-Bouchard*. Quebec: Éditeur officiel, 1978. (Yves Martin and Lucien Bouchard, Commissioners.)

Tapin, Jean-Robert. "Aperçu de la dernière ronde de négociation dans les secteurs public et para-public". *Le marché du travail* 1 (October 1980): 32–41.

8: *Management Structures to Accommodate Multi-Employer Hospital Bargaining in Western Canada*

KURT WETZEL
and
DANIEL G. GALLAGHER

Kurt Wetzel is Associate Professor, College of Commerce, at the University of Saskatchewan.

Daniel G. Gallagher is Associate Professor at the University of Iowa.

Contents

Introduction 287
Multi-Employer Bargaining: An Overview 290
Management Components in Multi-Employer Hospital Bargaining 291
  Hospitals 292
  Hospital Employers' Associations 293
  Government 294
British Columbia 296
Alberta 298
Saskatchewan 300
Analysis 304
Conclusions 308
Notes 311
Bibliography 312

Management Structures to Accommodate Multi-Employer Hospital Bargaining in Western Canada

Introduction

The structure of collective bargaining in Canada is basically decentralized. In 1977 fewer than one-half of all negotiations in bargaining units comprising 500 or more employees took place within multi-plant single-union, or multi-employer single-union, settings; specifically, 30.4 per cent of the negotiations took place in the former and 16.8 per cent in the latter.[1] There are, however, indications that multi-employer bargaining may become more prevalent. Saskatchewan has public sector multi-employer bargaining in primary and secondary education, as well as in hospitals, nursing homes and community colleges. In 1980, 31.4 per cent of British Columbia's public and private sector union membership was covered by agreements signed with accredited multi-employer associations, while other unions negotiated with associations that were not accredited.[2] Employer participation in multi-employer bargaining generally occurs under the auspices of an employers' association, which becomes the bargaining agent for its members. In the public sector, an employers' association may serve to focus and represent its members' interests in their dealings with unionized employees, as well as with government.

The various types of multi-employer associations can be distinguished from one another on the basis of such features as function, legal status and geographic scope. In terms of function, there are both single-purpose and broad-purpose associations. Single-purpose associations exist solely to represent their members in dealings with trade unions. Without collective bargaining, their *raison d'être* would be lost. By contrast, labour relations represent only one aspect of the activities of a broad-purpose association. Such an association may serve as the industry's lobbyist and as its spokesman. It may provide management consulting services, sponsor joint purchasing arrangements, arrange for the sharing of data-processing systems, or conduct education and training programs.

Another important functional distinction between multi-employer associations is the extent of their involvement in labour relations. An association may be designated to negotiate on behalf of its membership, leaving individual employers to administer the agreement. Other associations assume responsibility both for protecting rights and for interest issues, thereby limiting the employer's role. In associations of this type, professional staff, employed by the association, negotiate agreements and handle all disputes arising out of their application, administration and interpretation. The two arrangements differ in the degree to which individual employers are at liberty to exercise autonomy in the conduct of their labour relations. The essence of the autonomy issue is captured in Kerr and Fisher's definition of the output of multi-employer bargaining, the master agreement, as "a treaty between a group of employers more or less related to one another by common problems and a group of employees bound by certain common interests. In this treaty . . . the recognition of sovereignty is implicit."[3]

Multi-employer associations can also be distinguished on the basis of their legal status. Where statute provides, associations may become accredited, thereby limiting the freedom of individual employers to engage in unauthorized, independent, union/management interaction. Moreover, accreditation may make it difficult for an employer to withdraw and reassert control over the labour-relations function. Group solidarity thus becomes legally enforceable on a more or less permanent basis. By contrast, non-accredited associations operate on a more *ad hoc* basis. Power of attorney to conduct bargaining may be granted to an agent as each bargaining round arises. In other cases, there may be no legally enforceable requirement compelling members to adhere to association dictates, as participation will be voluntary. Finally, multi-employer associations may be distinguished on the basis of their geographic scope. An association could represent its members in bargaining on a local, provincial, regional or national basis, depending upon such factors as the labour and product markets, whether the employer is in the public or private sector, and the nature of the legal jurisdiction under which the parties fall. No matter what dimensions the actual bargaining unit assumes, multi-employer associations facilitate employer participation in the form of centralized collective bargaining.

The most significant shared characteristic of multi-employer associations is their involvement in interorganizational interest bargaining with unions. However, in preparation for, and throughout, interparty negotiations, the employer group may engage in extensive intra-organizational bargaining. Through this process, an employer's organization, like a union, attempts to derive internal consensus on the best way to approach negotiations. In addition to anticipating and preparing responses to union demands, an association may develop or examine its bargaining philosophy, objectives, strategies and tactics. Contingency plans are drafted and agreed upon, and members' concerns are aired, assessed and assigned priorities.

This chapter focuses upon intra-organizational bargaining in the hospital systems of British Columbia, Alberta and Saskatchewan, where multi-employer bargaining has been the norm since the early and mid-1970s. The structure of management in the industry, which is comprised of individual hospitals, government and an employers' association, and the factors which bind these groups together are examined. In addition, the means by which decisions relating to collective bargaining are made in each province are analysed. Comparisons of the intra-organizational bargaining structures in these provincial systems reveal a range of options whereby power has been distributed among the three components of management. Of particular interest are the role played by governments in these multi-employer, public sector arrangements and the extent to which employers' associations operate as autonomous bodies. In this chapter, an attempt is made to determine whether these structures yield internal stability. No effort is made to analyse bargaining outcomes. Data for the project were gathered primarily through semi-structured interviews conducted during the summer of 1981 and the winter of 1982 with hospital administrators, staff employed by multi-employer associations, and government officials. Archival and published materials were used to supplement the interview data.

The hospital industry is one of Canada's largest. Government expenditures for hospitals in 1979-80 totalled $15.12 billion, thus making them a major budgetary item for provincial governments.[4] Hospitals are dispersed throughout the nation in both large and small communities and, depending upon their size and the services they provide, they can be highly complex organizations. Their services are universally acknowledged to be essential to the public's well-being. Thus, the quality and availability of health care make the industry both visible and politically sensitive. The labour intensiveness of hospitals means that the greater part of their operating budgets — a conservative estimate puts it at 75 per cent — is used to defray their wage bills.[5] They employ a wide variety of occupational groups, ranging from unskilled workers to highly trained professionals. Over the past fifteen years, Canadian hospitals have become highly unionized, and the industry has led the way in developing public sector, multi-employer, bargaining structures.

Multi-Employer Bargaining: An Overview

Previous studies of multi-employer bargaining have identified a number of advantages which accrue to management as a result of this structure. The biggest gain to employers is the elimination of 'whip-sawing' and 'leap-frogging', union tactics which are possible only when employers lack organization or discipline.[6] But where a second tier of bargaining exists in order to address local issues, whip-sawing may still occur, although the second tier does allow the parties to retain a degree of local control.[7] In some cases, both management and unions may gain strength from multi-employer bargaining, as each saves the expense of numerous local negotiations, and each benefits from the shift of authority to central organizations.[8] These advantages are especially great when the membership of the employers' association is relatively homogeneous, thereby minimizing the representational difficulties that negotiators may face.[9]

Within the context of the hospital industry, multi-employer bargaining is thought to produce stability. The existence of a single set of negotiations obviously reduces the number of opportunities for strikes, and when strikes do occur, their extent and gravity are so great that governments are likely to force resolution.[10] By definition, the causes of isolated strikes are eliminated, as there is no need for a union to strike at one hospital in order to establish a pattern or to force a recalcitrant employer to conform to a pattern that is already in existence. However, if an employer does have a case for special treatment, it may seek support for its position through an association, rather than reject a pattern at the risk of a strike.[11]

Multi-employer bargaining offers a number of other advantages. Negotiations are more apt to be conducted in a 'mature and responsible' fashion than may occur in local bargaining, because both parties are better able to afford professional assistance.[12] The standardization of wages and benefits facilitates the adoption of common job titles and classifications, while satisfying unions' desires for equity. Wage competition among employers to attract employees is eliminated, and employers are more likely to co-operate and exchange information about labour relations and personnel matters, drawing on the group's 'collective wisdom and experience'. Group decision making also insulates individual employers from union reaction to unpopular decisions, and unions are forced to simplify bargaining issues and to drop demands which have only a narrow appeal,[13] although the use of interest arbitration may work against that. In addition, employers can deal with the media and with government on a more unified basis.[14] In the public sector, multi-employer bargaining may provide unions with an opportunity to put their cases directly to the 'real' decision makers,[15] and the structure may provide government with a focal point to monitor or contribute to bargaining, which, because of its impact, may have significant budgetary or political consequences, or both.[16]

Longest has suggested that the proliferation of a variety of multi-hospital arrangements in the United States represents a "stabilization strategy".[17] The industry's capacity to deal effectively with an uncertain environment is increased by acting through multi-hospital blocs. The concomitant increase in political and economic power results in the better representation of hospitals' interests in vital exchanges with other organizations, such as government, insurance companies, suppliers and trade unions, and the organizational stability of individual institutions is thereby improved, albeit with some loss of autonomy. In short, multi-employer bargaining is an excellent example of a stabilization strategy.

Management Components in Multi-Employer Hospital Bargaining

Within a multi-employer bargaining context, 'management', rather than being an organic employer, is a hybrid, a composite of three blocs of interests: hospitals, their multi-employer associations, and government. The challenge is to arrange a distribution of powers which satisfies each component group. To maintain internal stability, the common front must evolve and institutionalize mechanisms of cohesion which allow its component groups and the distinct interests within each to contribute to the decision-making process and to provide incentives for supporting multi-employer bargaining. A spectrum of views must be solicited and given serious consideration. Constituent groups seek assurance that multi-employer structures will result in their concerns being aired and weighed internally and, in so far as is possible, represented competently in interorganizational bargaining.

Hospitals

The membership of multi-employer hospital groups is not homogeneous. For example, a key difference among hospitals is their size. Major urban hospitals employ a greater variety and number of workers than do small institutions, and they are centres of specialization and teaching. As a rule, 75 to 80 per cent of a province's hospital employees and expenditures are represented by referral hospitals. Because of their size, their complexity and a longer history of unionization, most large hospitals generally employ labour-relations staffs to deal with labour rights and interest issues. They are often able to participate in provincial bargaining by encouraging labour-relations specialists to serve on the negotiating committees of the associations. Small hospitals, by contrast, lack the resources to maintain labour-relations specialists. Prior to the advent of centralized bargaining, they were pattern-followers, for that structure removes something from the local purview which they had no great power or, for that matter, desire to affect. Since the operating costs of associations tend to be subsidized by large hospitals, by government or by both, membership in an association allows a small hospital to avail itself of services that are of value to it.

Depending upon what they receive in exchange, large hospitals may be willing to subsidize the labour relations of smaller ones. Even though large hospitals pay more dues to maintain a multi-employer association, they are frequently moderate consumers of its labour-relations services, for large hospitals have less need for assistance in resolving rights disputes. Small hospitals may turn to personnel officers in large institutions for second opinions on issues involving contract interpretation. In addition, associations negotiate agreements and provide contract-interpretation services, grievance handling and arbitration assistance, and educational programs. The expertise, size, willingness to contribute, and intense concern expressed by large hospitals mean that the smaller hospitals expect to be, and often are, well represented in the employee-relations activities of multi-employer associations. The large hospitals want to ensure that the effects of the system are compatible with their operational concerns, and the multi-employer structure is a means of exerting control over the labour relations of small hospitals.

Finally, in addition to providing a consolidated structure through which to bargain with unions, an employers' association may allow the health-care industry to deal more effectively with government. Should the associations obviate moves toward greater governmental involvement in bargaining, hospital-industry autonomy could emerge as a suitable replacement for local autonomy.

Hospital Employers' Associations

Employers' associations are the focal point of the political process of intra-organizational bargaining. Associations attempt to build and maintain internal consensus among their constituents in both the hospitals and the government. Their aim is to establish an organizational presence sufficient for conducting interorganizational bargaining, which would lead to the eventual ratification of emergent agreements.

Walton and McKersie discuss intra-organizational bargaining within a single-employer, private sector context, where such bargaining consists of soliciting, more or less formally, the perspectives and concerns of the functional areas, such as production and marketing, and of the levels of authority, such as foremen, department heads and plant managers.[18] The process is confined to the immediate employer's organization, and senior management retains ultimate authority.

Intra-organizational bargaining within multi-employer, public sector settings is more complex than is specifically indicated by Walton and McKersie, largely because power is diffused throughout a broader constituency. The parties involved include a multitude of hospital employers, each with institution-specific interests, as well as concerns relating to the functional areas, such as nursing, dietary services and finances. Government, which has policy, fiscal and political interests to pursue, may want some involvement, and, finally, the multi-employer association and its staff contribute an additional perspective and set of interests. Because of the profusion of parties involved, multi-employer intra-organizational bargaining becomes a complex, prolonged, and formally structured process whereby the views of each of the component groups are elicited and examined. Instead of the final decision maker being a chief executive officer, authority may be vested in a hierarchy of committees drawn from the membership and supplemented by association representatives, with possible contributions from government. Intra-organizational bargaining provides individual hospitals with an opportunity to contribute to bargaining proposals. Through the intra-organizational bargaining process, the association's board, committees, staff and negotiating teams evaluate a sometimes lengthy, contradictory and competing assortment of membership suggestions in order to establish a set of priorities that might ideally approximate a consensus.

The political nature of employers' associations and the procedures engaged in are not unlike those found in unions. Both organizations must satisfy their memberships, and the power which an association's membership exercises is union-like. Members elect officers and may have the power to ratify agreements. Individual association members, like union members, may have an opportunity to sit on bargaining committees. Finally, an association is judged on the basis of how well it represents constituents.

In the field of publicly funded hospitals, associations represent their membership to government and represent government's interests to the unions. The association may negotiate a bargaining mandate with government, following which it bargains a collective agreement, and it will endeavour to maintain government's confidence in the system in which multi-employer bargaining takes place through an employers' association. To achieve or maintain the desired arm's-length relationship with government, the association attempts to establish itself as being competent, responsible and a representative of the industry: that is, the instrument through which collective bargaining can and should be conducted. A hospital association, in particular, will seek to consolidate a position characterized by industry autonomy, with itself as the industrial relations broker between its membership and the unions and government.

Government

Intra-organizational bargaining in the public sector is complicated by the central role of the provincial governments in the health-care sector. First, provincial governments, with federal assistance, pay virtually all hospital costs, of which wages constitute a major portion. Thus, governments should exercise some control over management decisions regarding monetary issues. Secondly, governments are keenly aware of the potential political impact of industrial conflict in hospitals. Finally, the process of hospital labour relations is affected by the provincial governments' general labour-relations policies. As the maker of labour policy, government can determine the parties' relative power — for example, the right to strike — and it has a pre-eminent role in determining the structure of bargaining. For instance, some jurisdictions favour multi-employer bargaining more than others. These factors combine to make government an important element on the employers' side.

Government can define its role in bargaining in various ways. It can assume the role of management's bargaining representative, as it has in Quebec; it can remain active behind the scenes (the ghost at the bargaining table); or it can be a 'passive actor' in the system. The factors which determine government policy in this area are essentially political and beyond the scope of this study. However, government's preference for avoiding direct involvement in hospital bargaining is relevant here, as multi-employer bargaining through employers' associations holds the prospect of keeping bargaining out of the political arena.

Multi-employer associations can provide government with a convenient buffer, shielding politicians from direct bargaining pressures, such as 'end runs', as they are often termed. In addition, an association insulates government from criticism for the conduct of bargaining or for the settlement cost. Simultaneously, an employer's association can be an effective mechanism through which government can monitor central negotiations and unobtrusively influence their outcome. Government may expect an association to provide it with a 'window' on bargaining, thereby yielding data on probable settlements which can be used in budget making or enabling it to anticipate repercussions which might emanate from bargaining. Government's preference for distancing itself from bargaining creates the potential for symbiosis, both with the hospitals, which seek industry autonomy and control over bargaining within a multi-employer structure, and with employers' associations, which endeavour to be management's focal point during intra-organizational bargaining. Thus the bargaining pressures which government may wish to avoid are welcomed as a form of legitimization by the employers' associations.

Government's attitude towards the multi-employer bargaining representative is a key determinant of an association's capacity to maintain itself in the eyes of its membership and the extent to which members will endeavour to make it work. Strong government support for an association leaves hospitals with little option but to work within that association. If an association enjoys only lukewarm support, however, its discontented members may be tempted to look beyond the confines of existing structures to resolve their problems, thereby weakening the association in the eyes of its members, the unions and government.

British Columbia

British Columbia's Health Labour Relations Association (HLRA) is a single-purpose organization which includes all of the province's 131 hospitals except one. It was formed in 1975, when the general body representing hospitals, the B.C. Health Association, withdrew from labour relations. Shortly thereafter, the HLRA became legally accredited as the bargaining representative for member hospitals. The B.C. Health Association continues to supply other services to the industry.

The HLRA's constitution bestows considerable power upon the organization, which is intended to operate on a highly centralized basis. It retains the exclusive right to negotiate multi-employer agreements with certified unions, the three largest of which are the Hospital Employees' Union, the B.C. Nurses' Union, and the Health Sciences Association of British Columbia, all of which are based in the province and have large staffs. The HLRA is empowered to interpret and administer agreements on behalf of its members. Its constitution stipulates that members forgo the right to "have any dealings or communication with any union, or any official there . . .except as may be permitted by the Board [of Directors]".[19] Moreover, once an employer joins an accredited multi-employer association, the B.C. Labour Relations Board is loath to permit that employer to withdraw.[20]

The HLRA has a two-tier structure, which operates on district and provincial levels. The province is divided into eight districts, within which Personnel Advisory Committees operate. These committees, which are subordinate to District Councils, facilitate the exchange of information pertaining to personnel and labour-relations matters, among hospitals and between HLRA staff consultants and the hospitals. District Councils appoint trustees or senior administrators to serve as district representatives on the HLRA's Board of Directors. Voting in the HLRA is proportional, and is based on hospitals' expenditure levels. Although dues are calculated according to the members' payrolls, each institution is entitled to one vote, with additional votes allowed for each $3 million by which its budget exceeds $1 million. Weighted voting helps to secure the support of large hospitals for accreditation.

In practice, large institutions retain considerable power. While each district has at least one seat on the board, representation is weighted according to expenditures. A recent constitutional amendment guarantees the Lower Mainland and Vancouver Island Districts a minimum of four and two board members respectively.

Thus districts within which the large referral hospitals reside have considerable impact upon the decision-making process.

The HLRA's Board of Directors has numerous functions. It hires the HLRA's president, and it appoints hospital administrators, senior nurses and trustees to negotiating committees. Together with the president, the board names the chief spokespersons. In addition, it approves guidelines for bargaining teams, monitors negotiations, and recommends settlements to the membership. Once hired by the board, the president sits on all committees, directs communications with government, hires staff, and oversees bargaining. The staff of the HLRA is employed in the areas of research, negotiation, classification and member services.

Bargaining preparations begin with the mailing of questionnaires to hospitals in order to solicit suggestions for the amendment agreements. Proposals are submitted to pre-bargaining meetings held by the Personnel Advisory Committees of the eight districts. At this level, concern focuses upon the operational and administrative impact of contract language. District proposals are forwarded to the HLRA, where the staff drafts proposals reflecting the hospitals' concerns. In addition, issues of strictly local import, which cannot be dealt with provincially, are dropped. (Virtually no local bargaining occurs, although peripheral deals are occasionally struck at the local level by large hospitals, as is often the case when bargaining is centralized.) Proposals are then arranged in order of priority and are submitted by the president to the board for approval. There is no liaison with government to exchange ideas on the guidelines for monetary items; instead, the guidelines are set by the president, in consultation with the board.

During negotiations, considerable decision-making authority resides with the staff negotiator and the president. The board's guidelines are permissive, in that they allow the negotiator latitude actually to bargain with a union. Negotiators, in conjunction with the president, have the capacity to act with dispatch, thus enabling them to close a deal, should the opportunity present itself. While government may be informed of what occurred during the bargaining process, it is not involved in that process, for the board can recommend tentative settlement to members for ratification without seeking government approval. Such settlements are frequently reached through interest arbitration. Proportional voting has been retained for use in ratification votes, thereby giving large hospitals a veto over negotiated settlements.

Although the HLRA's constitution proscribes local union-management contact on rights issues, this ban has not been en-forced. Instead, the HLRA may delegate rights disputes to the members involved. The outcomes are then technically subject to the approval of the HLRA. There is no doubt that the HLRA lacks the resources to handle every issue that arises in the administration of local contracts. However, it does want to be involved where the issue has implications for the interpretation of a master agreement. In such cases, it may pay the costs associated with arbitration.

There is a broad spectrum of ways in which local administration activities are executed. Some large hospitals handle all of their own grievances to the point of termination without informing HLRA. Others handle non-interpretation grievances on an in-house basis, but involve the HLRA on interpretation matters. Still other large hospitals seek the HLRA's advice and assistance on all grievances.

Alberta

Founded in 1919, the Alberta Hospital Association (AHA) is a voluntary organization composed of 157 hospitals and 77 nursing homes. Heading the AHA is a fifteen-member Board of Directors. A group of ten board members, composed of equal numbers of trustees and administrators, represents the province's eight regions. The Calgary and Edmonton regions are each represented by two directors, one of whom is chosen to represent the nursing homes and the other to represent the Catholic Hospital Conference of Alberta. The AHA's executive officers also sit on the board. The number of voting delegates that member hospitals may send to AHA conventions is based on the amount of dues that are paid. Dues, in turn, are determined by the members' budgets.

Unlike the HLRA, the AHA is a multi-purpose association. A department called 'Policy Development Services' makes policy recommendations and lobbies government. The General Consultation Department assists local hospitals in areas such as strategic planning, the recruiting of chief executives, and the resolution of internal organizational problems. Management Analysis and Planning Services consults on operational problems, quality control and personnel administration, and, through Alberta Blue Cross, the AHA offers the public a pre-paid hospitalization plan. Finally, the Employee Relations Department provides negotiation and administrative services through a staff which includes negotiators, consultants, contract administrators and researchers.

By the early 1970s, bargaining had been voluntarily and gradually centralized, although some local bargaining on specific local issues continues. At present, negotiations are conducted provincially with bargaining units comprised of five categories of workers: direct nursing care, involving graduate, registered and psychiatric nurses; auxiliary nursing care, involving nursing assistants, aides and orderlies; general support staff, involving clerical, maintenance and dietary personnel; paramedical and technical staff, such as electro-encephalograph and medical-records technicians; and professional paramedical staff, such as pharmacists, social workers and dieticians.

To oversee the AHA's employee-relations activities, the Board of Directors appoints the *ad hoc* Employee Relations Committee (ERC). The ERC is composed of roughly equal numbers of trustees and administrators, and has recently been expanded from eight members, each representing a region, to thirteen members, with the majority of the new membership coming from the metropolitan hospitals. Prior to the expiration of collective agreements, each hospital is asked to review its experiences with the administration of the agreements and to submit suggestions for their amendment. Meetings are then convened in the eight regions to discuss the agreements and to elicit opinions on the suggested changes. The ERC selects five bargaining teams, which generally consist of two administrators, two trustees, two personnel officers and an AHA staff negotiator.

Each of the five bargaining committees reviews proposals and existing agreements, and drafts proposals for the changes it wants. Bargaining teams attempt to anticipate the terms necessary to secure settlements. The chief negotiators and one committee member from each team then convene as the Joint Resources Committee (JRC). The JRC compares the bargaining committees' projected settlements and proposed directions, and looks for commonalities that might lead to the development of a unified philosophy, as well as goals and policies. It also endeavours to fashion common opening positions for each table. If submissions from individual committees fail to reflect this thrust, the JRC may modify their proposals to bring them into line with the others. When a suitable common approach has been developed, proposals are forwarded for final approval to the ERC, which also establishes and amends bargaining mandates. As there is no provision for negotiators to pursue settlements which are within reach, but which might exceed their mandates, communication between negotiating teams and the ERC is, of necessity, close.

There is no governmental involvement in this process. While guidelines are established by the government, they are intended to apply throughout the public sector and not just to the area of health care. Although hospital employees have the right to strike, provincially owned hospitals — three in Edmonton and two in Calgary — can continue to operate unencumbered during strikes. And, while government funds all hospitals, it is, as in British Columbia, not involved in negotiations. The Department of Hospitals and Medical Services and the AHA have no mechanism for routinely exchanging information concerning negotiations. Government is on record as supporting the autonomy of local hospital boards. The fact that hospital boards in many communities represent a significant political force no doubt curbs government's proclivity to intervene in their affairs.

In the area of contract ratification, there is a clear manifestation of tension within the employers' group. In the 1981 round, a mediator's proposal was submitted to a ratification vote by local hospitals. The AHA refused to endorse the proposed settlement, dubbing it 'too rich'. Four hospitals ignored this recommendation and ratified the proposal. Still others let it be known that they would ratify the agreement, rather than take a strike. This experience caused the AHA to examine its ratification process. For the most recent bargaining round, the AHA ceded to its Board of Directors the power to ratify agreements which are recommended to it by the ERC. The only caveat was that the AHA communicate to the membership more about bargaining developments. Accordingly, meetings to explain major changes are held after ratification in each of the eight regions. Some officials of large hospitals who expressed dissatisfaction with the AHA's and the big institutions' perceived inability to influence events cited the revised ratification procedure as an example of misguided centralism.

Saskatchewan

Bargaining in Saskatchewan hospitals was centralized in 1973, according to the wishes of the hospitals, the Saskatchewan Health-Care Association (SHA), the government, the nurses' union, and the two unions representing non-professional employees. The SHA bargains on behalf of all 112 unionized hospitals, although hospitals are not compelled to join or to maintain their participation in the centralized multi-employer structure. It is a multi-purpose industry group, and its membership includes home-care districts, ambulance boards, hospitals and some nursing homes, which also maintain affiliation with their bargaining agent and industry association, the Saskatchewan Association of Special-Care Homes. In addition to overseeing labour relations, the SHA serves as the industry's lobbying group, sponsors group-purchasing plans, and operates benefit programs. Its bylaws do not cite collective bargaining as a *raison d'être*.

Costs incurred by the SHA that are directly associated with bargaining, including negotiators' salaries, and travel and accommodation expenses, are paid by government, although the SHA hires its own staff. This staff includes specialists in employee benefits, classification systems and labour relations. The Board of Directors of the SHA is composed largely of trustees and a few administrators, and includes representatives from each of five districts, the two major urban centres, the Catholic Health Services Conference, the Association of Health Service Executives, the SHA's elected officers and, as they are required, individuals with particular skills. Dues are graduated and range from $1000 to $6700, and voting is not proportional.

The SHA's Board of Directors appoints the Employee Relations Committee (ERC). The ERC's membership is weighted in favour of the five large (over 500-bed) referral hospitals, with four seats designated for them. Those hospitals frequently provide high-profile experienced personnel and have considerable influence. A number of board members — five in 1982 — also sit on the ERC. This overlap is intended to keep the board informed and to educate it about labour relations. A government representative, the observer, is invited to attend ERC meetings. The government observer sits as a resource person on the ERC, in addition to providing a physical government presence at bargaining tables. The functions of the ERC are to promote uniform approaches to employee relations, to approve the policy line for bargainers, and to monitor talks. On the recommendation of SHA staff, the ERC names members to bargaining committees.

Pre-bargaining preparation commences with a recently instituted annual visit by a SHA staff representative to each unionized hospital. In local meetings with administrators and directors of nursing, problems with existing collective agreements and suggestions for change are noted. This systematic solicitation of local perspectives has won widespread approval from the hospitals. Local officials have been found to be more open about their problems in this setting than they were in regional pre-bargaining conferences, which purportedly attracted and provided forums for vocal hardliners. Information gathered by visitation and drawn from SHA files is made available to the *ad hoc* pre-bargaining committee. This body is comprised of a key administrator, the SHA's Assistant Executive Director in charge of employee relations, and the labour-relations staff. The committee reviews the issues and identifies those for which narrow interest has been evinced and which are better dealt with on a local basis. Issues that attract broader recognition receive close attention. The *ad hoc* pre-bargaining committee then researches and discusses issues and alternative approaches to bargaining. It carries on discussions with the funding agency, the Saskatchewan Hospital Services Plan (SHSP), to establish a mandate on monetary items. Pursuant to these frequently intense discussions, the *ad hoc* committee readies proposals for submission to the ERC, approval from which is required in order to establish bargaining mandates, particularly on non-monetary issues.

While the pre-bargaining activities are being concluded, the actual bargaining teams are formed. Bargaining teams include a chief spokesman, who is usually a SHA staff representative, but occasionally a hospital official; a trustee co-chairman, usually from the ERC; a finance person; a personnel officer; two administrators; and a director of nursing. The government observer sits with the management team, but is not a member of it. The trustee member serves to keep the ERC directly apprised of the status of talks and to assist the bargaining team in its dealings with the ERC. Although the SHA prefers to include administrators from both large and small hospitals on bargaining teams, this is rare in practice. Because of a lack of administrative support, administrators of small hospitals cannot arrange to be away from their institutions in order to participate in protracted negotiations. Instead, they are represented by consultants based in medium-sized hospitals. The lack of direct representation of small hospitals concerns administrators of small institutions, who consider that their interests are not well represented in negotiations. Moreover, they complain that because none of their number is present, they are often unable to learn the background and intent of new contract language. Supplying such information to administrators is one of the functions of the government observer.

Bargaining committees have some flexibility regarding the conclusion of agreements. Although they usually act in consultation with the ERC and SHA staffs, a bargaining team may seize a settlement opportunity which slightly exceeds its mandate. As a result, the membership of the SHA receives little feedback on the progress of talks. The ERC reviews proposed settlements and makes recommendations to the board, pending government assurance of funding. The board then recommends settlements to the hospitals, which vote on ratification. If a hospital rejects a settlement, it is legally free to negotiate its own agreement; however, government will fund it only up to the level of the provincial agreement. Not surprisingly, local rejection has not occurred to date.

Throughout the course of the negotiations, the government observer plays a unique and important role. First, he is a direct conduit of information to government. He speaks only when asked direct questions or when government comes under attack, and he provides assessments of the bargaining situation and what the settlement levels are likely to be, thus aiding the budget-making process. Secondly, it is through the observer that hospital representatives negotiate with government for funding, simultaneously with the bargaining procedures. While making a case to their union counterparts, SHA representatives work toward a consensus with government as to what is required in order to secure a settlement with the union. If the observer is convinced by management's case, he, in turn, must convince government. Through the observer, negotiators continually receive information as to whether funding will be forthcoming. Without such assurances, negotiators are reluctant to accede to union demands that have financial implications.

The observer has, in the past, performed two additional functions. First, unions have used the observer to relay information to top government officials. Furthermore, as an experienced labour-relations person who has watched the talks unfold, and who may enjoy the confidence of both parties, the observer is occasionally used as an informal conciliator, especially when the parties are finalizing their agreement. This tripartite structure provides a flow of information and a flexibility which keeps decision making at, or near, the tables, thereby helping to sustain the momentum of negotiations.

As in Alberta, local agreements may supplement provincial settlements. Local addenda often consist of items that have been retained from pre-existing local agreements which were better than the master agreement. In addition, some issues are negotiated locally, such as the number of hours of work, special pay for unique classifications, and the provision of clothing for maintenance workers. No major monetary items are bargained for on the local level because funding would be a problem; the SHA and many hospital officials are leery of local bargaining, fearing that it could lead to unions extracting concessions not obtained provincially, and that it could thus renew the practice of whip-sawing.

Small hospitals use the SHA's contract-interpretation and grievance-handling services more extensively than do large ones. By supplying resource people to bargaining teams, large hospitals obtain first-hand understanding of an agreement's intent. In cases involving the interpretation of provincial agreements, the SHA may be consulted or informed and asked to join a hospital and share expenses.

Analysis

The activities within the three provinces provide an opportunity to identify and compare the approaches to, and the operation of, multi-employer bargaining in the hospital industry. The first province to be discussed is British Columbia.

Unlike the Saskatchewan government, the government of British Columbia has eschewed an active role, even as a monitor, in the intra-organizational or interorganizational bargaining processes. Its contribution to the system and its impact upon it, however, have been substantial. Through labour policy and legislation, the government has determined the structural and procedural framework within which bargaining occurs. For instance, the Essential Services Disputes Act gives hospital unions the choice between resorting to arbitration or controlled strikes. Under the latter option, the Labour Relations Board designates certain employees as 'essential' and prohibits them from striking. In addition, legislation provides for the accreditation of multi-employer associations.

The industry's bargaining structure and management's internal structure are, in large measure, a function of accreditation. The B.C. Labour Code and previous labour relations legislation have encouraged multi-employer bargaining by providing for the accreditation of associations. Although accreditation alone does not account for the distribution of power within the management structure, it does provide the HLRA with strong central *de jure* authority to represent its members and is an important mechanism of cohesion. In addition, accreditation has significantly affected the employee-relations functions of local hospitals in British Columbia by restricting their autonomy to deal with unions. Although hospitals regularly deal with union representatives on a local basis, the availability of the HLRA's professional staff obviates the need for and expense of large, local, labour-relations staffs.

The statutory framework and the government's non-interventionist policy provide for a substantial degree of industry autonomy over labour relations through the multi-employer association. Collectively, the hospital industry has been free to establish intra-organizational structures and processes designed to respond to the operational needs of hospitals, the internal political realities of the industry, and the requirements of interorganizational bargaining.

The government of British Columbia has also played a significant role as a funder of hospitals, and this function became a highly important factor in the province's industrial relations system in 1982, when budget reductions caused lay-offs. Although the role of the provincial government is significant, it is indirect. Because labour-relations history, in general, favours the multi-employer bargaining structure, hospitals are treated like other industries. Yet the government's financial commitment to health care can have a profound impact on industrial relations in that sector.

A key determinant of a multi-employer hospital association's success is its capacity to satisfy large hospitals. The large hospitals in British Columbia have accepted, and are positively disposed towards, the current structure. They recognize the futility and disutility of attempting to withdraw from the accredited association. Although the large hospitals may occasionally question the HLRA's constitutional authority, they do not question the ultimate legitimacy or value of the multi-employer structure. The fact that some hospitals periodically make deals on the side with local unions more nearly reflects operational necessity than disaffection, and is evidence that the total ban on interaction between the local union and management is somewhat unrealistic and is bound to be breached. Should the issue develop into a major point of internal friction, it could be alleviated by establishing operationally realistic limits on local dealings.

Despite the financial costs born by large hospitals, their ability to operate without using some HLRA-provided services, and their loss of local autonomy, the multi-employer structure serves their long-term interests. Large hospitals have had a strong voice in the decisions affecting bargaining, and thus are able to limit the impact that smaller institutions could have upon them. In addition, the structure of the HLRA and, in particular, the services that it provides seem to accommodate the needs of the small hospitals.

As a stabilization strategy, the multi-employer bargaining structure in British Columbia has probably yielded better results for hospitals than it has for government. Strikes have not been as big a problem for B.C. hospitals as they have been in Saskatchewan and Alberta. Instead, the unions have tended to opt for interest arbitration, thereby reducing government control over bargaining outcomes. Furthermore, on one occasion, a bargained settlement was unexpectedly large. Government was not apprised of the terms of the forthcoming settlement and, hence, was unprepared to fund it.

In general, the government's decisions to distance itself from the process and to minimize strike activity have limited the role it can play in the bargaining procedure. A more active government role in the bargaining process may evolve; however, it is also possible that political considerations will rule out that possibility. Having left its interests in the care of a strong employers' association, government participation is not essential to the system's stability.

The Alberta government shares the B.C. government's preference for a non-interventionist policy towards hospital bargaining. The primary difference between the two systems is that Alberta's labour policy does not provide for the establishment of a near-mandatory association within which member-hospitals would be compelled to conduct their bargaining. Nor does intra-management cohesion receive external impetus as a result of governmental pressure or the government's presence as a quasi-participant in the bargaining process, as in Saskatchewan.

Alberta hospitals are free to withdraw from the AHA's bargaining umbrella. This right would not pose a serious problem if the AHA represented an industry consensus. However, some large hospitals have come to believe that their interests are poorly represented by the AHA, and some of their officials have openly discussed the possibility of breaking with the current structure in order to form a bargaining unit composed only of large institutions. Dissatisfied elements have also questioned the competence of the AHA's staff. Their dissatisfaction stems, in part, from the fact that both small- and medium-sized institutions are well represented in the AHA's labour-relations councils, unlike those in British Columbia and Saskatchewan, where large employers predominate, either formally or informally.

The internal fractiousness which seems to typify the system in Alberta must stem from the assumption that government will not intervene to stop it. Indeed, government apparently does not want to catalyse the unity which, heretofore, was lacking. This is largely a political decision. Even though the government funds the hospitals, it does not want to interfere in their decision-making processes, having committed itself to respecting the autonomy of local hospitals. Yet, since government action is perceived as unlikely, there may be no compelling reason for the hospitals to resolve their differences within the AHA's framework.

The recent attempt to augment central power by ceding ratification authority to the AHA's board has emphasized and aggravated the difficulties of the current structure by making local hospital boards aware of threats to their autonomy. Although the arrangement may turn out to be short lived, there are recent indications that it may have served to increase the AHA's credibility, as perceived by its unions. However, whether or not this will result in larger organizational units remains to be seen.

Multi-employer bargaining in Alberta has yet to fulfil its potential as a stabilization strategy. At present, the AHA lacks the necessary intra-organizational consensus or equilibrium among its component groups. Nor has unity been forced upon it by government policy or involvement. Government's respect for the principle of hospital autonomy may be inappropriate when applied to multi-employer bargaining, which requires employers to subsume their interests in those of the group. The belief of individual hospitals that they could leave the current structure further undermines the immediate prospects for unity. The Alberta experience would seem to suggest that the mechanisms of cohesion work best when adopted early in the life of a multi-employer bargaining association, for the political risks to government of attempting to enforce organizational cohesion are increased the longer disunity persists. The Alberta experience shows that although large hospitals are not numerically significant, their support for multi-employer bargaining can be an important ingredient in determining a system's stability.

Within the Saskatchewan system, there is the approximation of a participatory equilibrium among management groups in the hospital industry. Large hospitals have a sufficient role in industrial relations matters that they can maintain both a high degree of local autonomy over the administration of agreements and a strong say in provincial negotiations, although their interests are balanced by those of government and the SHA staff. Large employers have been active and positive participants in the system. They recognize and support the structure as legitimate and desirable. If nothing else, the structure serves to put some controls on the actions of smaller hospitals. Although the small hospitals express some dissatisfaction because they are not directly represented in bargaining, it is to the SHA's credit that the views of small employers are systematically solicited, considered and, presumably, put forth during bargaining. Small hospitals continue to regard it as worthwhile to bargain under the auspices of the SHA. Their dissatisfaction differs both in degree and in kind from that which is expressed in Alberta, falling far short of manifesting an organizational pathology.

The SHA is not an accredited association. In fact, it does not have need of that mechanism, for any renegade hospital which attempted to withdraw would almost certainly face government opposition. That does not mean that the SHA, any more than the HLRA, can maintain its role without being responsive to, and representative of, its members. Rather, it must provide leadership and acceptable levels of service to hospitals, particularly in the area of contract administration.

The Saskatchewan government's approach towards hospital bargaining activities is relatively interventionist. It is represented physically at tables by the observer, who is in a position to know how competently the SHA represents government interests. For the SHA to survive as a bargaining agent, it must satisfactorily represent government. The SHA's biggest problem in this regard is to persuade government to accept the conclusion that it may be necessary to allow a strike and then let that strike run its course. During bargaining, the SHA attempts to maintain itself as the focal point, as far as unions are concerned. With government physically present in bargaining and acting as a reminder of the record of government intervention to curtail strike activity, retaining credibility in the eyes of the union may become very difficult. The current structure could lend itself to end runs by unions to the politicians. If unions chose to politicize bargaining by targeting government and succeeded in doing so, the SHA's capacity to serve as an effective bargaining representative would be severely undermined. In that case, government might well be forced to assume a direct and active bargaining role as it has, in fact, done in its dealings with the Saskatchewan teachers. Clearly, the balance required to maintain the SHA as a viable bargaining agent for the industry and government is delicate.

Conclusions

The primary conclusion to be drawn from this study is that governmental allocations of power within management-headed intraorganizational bargaining relationships are important determinants of the capacity of a multi-employer structure to provide stability. The components of the hospital systems in the three provinces discussed, British Columbia, Alberta and Saskatchewan, are basically similar. All are comprised of large and small hospitals, which employ a variety of organized workers whose salaries are fully funded by government. Each local hospital has a board of directors. In each province, the hospitals all belong to province-wide, multihospital associations which represent them during the bargaining process, and the leadership of each multi-employer association is accountable to its membership.

The systems of the three provinces are distinguished from one another by the distribution of authority among government, large and small hospitals, and multi-employer associations. In all three provinces, government decides what, if any, role it will play in the bargaining system. It can choose from a number of options, ranging from virtually no direct role, as is the case in British Columbia and Alberta, to the assumption of negotiating duties. The Saskatchewan government acts as an active monitor, a normally quiescent, but evident and potentially significant, player. The three systems of bargaining can also be distinguished by how, and to what extent, government vests bargaining authority in the hospitals and their multi-employer associations. The allocation of formal and informal authority is a major determinant of the role of an employers' association, its relationship to its membership and, hence, its capacity to derive internal consensus. An employers' association cannot stand on legislatively bestowed authority as the sole, or even the primary, basis of its legitimacy. Rather, its survival and effectiveness depend upon the association establishing and maintaining credibility with its membership by delivering useful services in a competent manner.

In British Columbia, powerful unions and government policy have combined to produce a strong employers' association. The government has chosen to use accreditation to cede a great deal of formal authority to the multi-employer association. This has made the HLRA the industry's intra-organizational focus of collective bargaining and has produced a relatively stable relationship among the parties. Hospitals seem to accept the arrangement and make adjustments accordingly. The management bargaining structure in B.C. hospitals is one example of the trade-offs among government involvement, multi-employer association control, and local hospital autonomy which are evident in each system. Large hospital support for multi-employer bargaining is apparently a *sine qua non* for stability.

The role of the Alberta government in the bargaining system has been extremely limited. However, unlike that of British Columbia, Alberta's government has vested no formal authority in the AHA. Instead, it has tacitly endorsed the AHA as the industry representative. The Alberta government's allocation of formal and informal authority to the AHA has been limited because of its reluctance to threaten or reduce the authority of local hospital boards. The AHA has had to turn directly to its membership for additional accretions of authority, such as the right to ratify agreements. As a result, the local hospital boards retain considerable autonomy and potential for independent action.

Because of the Alberta government's *laissez faire* approach, the AHA's labour-relations function has had a more evolutionary development. Large hospitals have not completely come to terms with multi-employer bargaining. Because the AHA receives only tacit government support, and because government assumes no active role in the intra-organizational bargaining process, external factors are not an effective restraint upon internecine management conflict. A generalization based on Alberta's experience might lead to the conclusion that where government is not an active participant in the bargaining system, and where it chooses not to allocate formal power to an association, some local units will not accept the loss of their autonomy. The resulting internal conflict is likely to threaten the existence of the multi-employer structure, and is not likely to yield internal organizational stability.

In Saskatchewan, multi-employer hospital bargaining and the SHA's role as the management representative emerged as a result of consensus within the industry which was bolstered by government. The Saskatchewan government's support for the SHA is strong. While it does not approach the *de jure* dimensions of accreditation, the *de facto* support that the SHA receives is manifested in the government's direct funding of its labour-relations function. The multi-employer hospital group provides a means of focusing internal discussion in order to form industry-wide consensus, which is necessary to allow the group to deal with two forces: government and the trade unions. The SHA's unity gives it the credibility to deal with government on behalf of the hospitals. Government's expectation is that the industry will bargain with unions through the SHA. Unlike the dissident Alberta hospitals, dissatisfied elements in the Saskatchewan and B.C. systems have nowhere to turn. The structure forces hospitals to engage in intra-organizational bargaining with an eye to developing consensus and stability.

Finally, the distribution of power within these associations reflects the circumstances of their formation. In British Columbia, a strong union forced management to adopt a centralized structure, which is reinforced by public policy. By contrast, the association in Alberta assumed its responsibilities gradually, without pressure from labour or a mandate from government. Saskatchewan is an intermediate case. Labour was relatively strong in that province, but there was no public policy support for employers' associations in general, although the provincial government obviously supported the formation of the SHA. The latter two provinces have voluntary employers' associations, but only in Alberta is withdrawal from the provincial body a realistic possibility.

Notes

1. J.C. Anderson, "The Structure of Collective Bargaining", p. 179.
2. Accreditation is a statutory arrangement whereby an association comprising employers obtains the exclusive right to represent its members in bargaining, much as certified unions do on behalf of their members. See British Columbia, Committee of Special Advisors to the Minister of Labour, *Report — Multi-Employer Bargaining, Accreditation and the Legislative Provisions Applicable Thereto*, Appendix II.
3. C. Kerr and L.H. Fisher, "Multiple-Employer Bargaining: The San Francisco Experience", pp. 29–30.
4. Canada, Department of National Health and Welfare, *Canada's National-Provincial Health Program for the 1980s*, p. 15.
5. L. Soderstrom, *The Canadian Health System*, p. 28.
6. F. Bairstow, "The Structure of Bargaining: International Comparison — A Story of Diversity"; R. Pegnetter, *Multiemployer Bargaining in the Public Sector: Purposes and Experience*; and J.B. Rose, *Public Policy, Bargaining Structure and the Construction Industry*.
7. D.G. Gallagher and K. Wetzel, "Centralized Multi-Employer Negotiations in Public Education: An Examination of the Saskatchewan Experience".
8. G. Adams, D. Beatty and M. Gunderson, "Structural Issue of Centralized Bargaining in Health Services: Canada, U.S. and Britain".
9. A.R. Weber, "Stability and Change in the Structure of Collective Bargaining".
10. W.J. Abelow and N. Metzger, "Multi-Employer Bargaining for Health Care Institutions".
11. F. Davey, *Contemporary Collective Bargaining*, pp. 36–44.
12. *Ibid.*
13. Abelow and Metzger, "Multi-Employer Bargaining for Health Care Institutions".
14. *Ibid.*
15. Gallagher and Wetzel, "Centralized Multi-Employer Negotiations in Public Education".
16. Adams, Beatty and Gunderson, "Structural Issue of Centralized Bargaining in Health Services".
17. B.B. Longest, "A Conceptual Framework for Understanding the Multi-Hospital Arrangement Strategy".
18. R.E. Walton and R.B. McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*.
19. Health Labour Relations Association, *Constitution*.
20. British Columbia, Committee of Special Advisors to the Minister of Labour, *Report — Multi-Employer Bargaining*.

Bibliography

Abelow, William J. and Metzger, Norman. "Multi-Employer Bargaining for Health Care Institutions". *The Employee Relations Law Journal* 1 (Winter 1976): 390–409.

Adams, G., Beatty, D. and Gunderson, M. "Structural Issue of Centralized Bargaining in Health Services: Canada, U.S. and Britain" in *Industrial Relations and Health Services*, edited by A.S. Sethi, pp. 1–33. London: Croom Helm, 1983.

Anderson, John C. "The Structure of Collective Bargaining" in *Union-Management Relations in Canada*, edited by John C. Anderson and Morley Gunderson, pp. 173–95. Toronto: Addison-Wesley, 1981.

Bairstow, Frances. "The Structure of Bargaining: International Comparison — A Story of Diversity" in *Proceedings of the Spring Meeting of the Industrial Relations Research Association*, pp. 514–25. Madison: IRRA, 1980.

British Columbia. Committee of Special Advisors to the Minister of Labour. *Report — Multi-Employer Bargaining, Accreditation and the Legislative Provisions Applicable Thereto.* Vancouver: Province of British Columbia, 1980.

Canada. Department of National Health and Welfare. *Canada's National-Provincial Health Program for the 1980s.* E.M. Hall, Commissioner. Ottawa: The Department, 1980.

Davey, Harold W. *Contemporary Collective Bargaining.* 3rd edition. Englewood Cliffs, N.J.: Prentice-Hall, 1972.

Davey, Harold W. "The Structural Dilemma in Public Sector Bargaining at State and Local Levels: A Preliminary Analysis" in *Proceedings of the 26th Annual Winter Meeting of Industrial Relations Research Association*, pp. 67–73. Madison: IRRA, 1974.

Feuille, Peter; Juris, Hervey; Jones, Ralph and Jedel, Michael Jay. "Multi-Employer Bargaining Among Local Governments" in *Proceedings of the 29th Annual Winter Meeting of Industrial Relations Research Association*, pp. 123–31. Madison: IRRA, 1977.

Feuille, Peter; Maxey, Charles; Juris, Hervey and Levi, Margaret. "Multi-Employer Bargaining in Metropolitan Hospitals". *The Employee Relations Law Journal* 4 (Summer 1978): 98–115.

Gallagher, Daniel G. and Wetzel, Kurt. "Centralized Multi-Employer Negotiations in Public Education: An Examination of the Saskatchewan Experience". *Journal of Collective Negotiations* 9 (No. 4 1980): 281–95.

Health Labour Relations Association. *Constitution*. Vancouver: The Association, 1980.

Kerr, Clark and Fisher, Lloyd H. "Multiple-Employer Bargaining: The San Francisco Experience" in *Insight Into Labour Issues*, edited by Richard A. Lester and Joseph Shister, pp. 25–61. New York: MacMillan, 1948.

Longest, Beaufort B. "A Conceptual Framework for Understanding the Multi-Hospital Arrangement Strategy". *Health Care Management Review* 5 (Winter 1980): 17–24.

Morgan, Howard J. "Decision-Making Within an Accredited Employers' Association". M.A. thesis, Simon Fraser University, 1982.

Pegnetter, Richard. *Multiemployer Bargaining in the Public Sector: Purposes and Experience*. Public Employee Relations Library Series No. 52. Chicago: International Personnel Management Association, 1975.

Rose, Joseph B. *Public Policy, Bargaining Structure and the Construction Industry*. Toronto: Butterworth, 1980.

Smythe, Cyrus F. Jr. "Public-Private Sector Multi-Employer Collective Bargaining: The Role of the Employer Representative". *Labor Law Journal* 22 (August 1971): 498–508.

Soderstrom, Lee. *The Canadian Health System*. London: Croom Helm, 1978.

Walton, Richard E. and McKersie, Robert B. *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*. New York: McGraw-Hill, 1965.

Weber, Arnold R. "Stability and Change in the Structure of Collective Bargaining" in *Challenges to Collective Bargaining*, edited by L. Ulman, pp. 13–36. Englewood Cliffs, N.J.: Prentice-Hall, 1967.

9: *Grating Expectations: The Limitations on the Development of Normative Criteria in Interest Arbitration*

KENNETH P. SWAN

KENNETH P. SWAN is a barrister in Toronto and Professor of Law at Queen's University.

Contents

Introduction 319
Comparability as an Economic Tool 320
Comparability as a Yardstick for Public Sector Bargaining 323
Comparability as a Criterion for Third-Party Intervention 323
A Choice of Process: Consensual or Dissensual 324
The Limits of Adjudication 326
Informal Alternatives to Adjudication 328
Formal Alternatives to Adjudication 330
Conclusions 334
Notes 335
Bibliography 336

Grating Expectations: The Limitations on the Development of Normative Criteria in Interest Arbitration

Introduction

Even more useless than locking the stable door after the horse has fled is a critical analysis of the horse's qualities. It may be that a discussion of comparability fits into that more useless category, now that the federal government and some provincial governments have abandoned, at least for two years, any normative connections between public sector and private sector compensation. But public sector collective bargaining will undoubtedly survive, and the content of this chapter will, it is hoped, one day be of assistance.

When discussing the difficulties with comparability, it is important to begin by understanding how pervasive a concept it has become in public sector collective bargaining, and how poorly understood it is by those who invoke and argue it. While the basic idea that like work ought to be paid for at similar rates long pre-dates collective bargaining in the public sector, the centrality of the concept of 'fair comparison' of the terms and conditions of employment in the public sector with those in the private sector has been expanded and formalized through royal commissions and task forces and, finally, by statutory enactment.[1] The notion has been widely adopted in Canada, although in most jurisdictions comparability was not raised to the position of primacy that it enjoyed in the United Kingdom.[2] In Canada, whether by statutory fiat or by the general development of an arbitral jurisprudence, the list of criteria for the determination of compensation levels in public sector collective bargaining has been expanded to include, in addition to comparability, internal relationships among groups of public servants; labour-market realities and the need of the government to be able to compete for qualified employees on the labour market; a generalized appeal to justice and equity; and in some circumstances, at least, some calculation of the employer's ability to pay.[3] Nevertheless, comparability remains central to our notion of how public sector collective bargaining ought to work.

The comparability concept is usually assigned three interrelated functions. First, it should be an economic tool; that is, it should act as a link between the market-controlled sectors of the economy and those parts of the public sector where the market is thought not to operate. Secondly, it has been advanced as a norm by which one can measure the success of the collective bargaining system in the public sector. Thirdly, and perhaps most important in this chapter, comparability has been used as a major criterion for third-party intervention, particularly arbitration, in public sector bargaining disputes. To expect one concept to fulfil all of these rules is asking quite a bit. Indeed, in this chapter it will be argued that too much is expected of the concept of comparability. It is used to provide a point of reference for too many points of view, and neglect of the serious difficulties involved in calculating comparability with sufficient precision for it to be a trustworthy guide has weakened our respect for the concept.

Comparability as an Economic Tool

Some of the difficulties inherent in measuring comparability so that it can be used effectively as an economic tool have been explored elsewhere,[4] and the argument is reviewed here only briefly. As an economic tool, the function of comparability is simply to establish salaries and working conditions in sectors of employment where, whether because of the monopsonistic position of the employer, gross differences in bargaining power, or restrictions on the use of economic force in negotiations, ordinary labour-market considerations do not apply. Thus the idea is to allow the discipline of the market to operate where it can, and to reflect the impact of that discipline into the non-market area by the use of some measure of comparability.

The difficulty with using comparability in this way is that links to the labour market are not always easy to establish. It is relatively easy to make comparisons where public and private sector employers compete on an equal footing for certain kinds of employees, but where public sector employers are virtually the sole purchasers of certain skills, comparisons are more difficult. Unfortunately, there is a considerable overlap among the set of employees in a monopsonistic labour submarket, the set of employees whose work has a considerable public interest component, and those employees whose use of economic weapons is restricted and who must, therefore, rely on arbitration for interest-dispute resolution. Thus, for large groups of employees in the public sector — police, fire-fighters, teachers, nurses and air-traffic controllers, to name but a few — there is little or no private sector market and, therefore, no readily identifiable outside source of comparability data based on 'similar or analogous' employment. For example, if there is no generally accepted measurement of the relative worth of a policeman as compared to a skilled mechanic, then the measurement of comparability for large parts of the public sector is of little use. While job-evaluation systems are available, most of them work best when they are used to assess the relative worth of similar kinds of jobs, arranged hierarchically. Where completely different jobs are involved, the trustworthiness of job-evaluation systems is considerably reduced, even disregarding criticisms of the suitability of such systems for the purposes for which they are intended.

Various attempts to create job-evaluation systems which command general acceptance when used to compare different kinds of work have not yet been successful. For example, a recent attempt in the United Kingdom to develop job-evaluation systems for the comparison of dissimilar jobs in the public and private sectors failed to produce results acceptable for public sector salary determination.[5] Therefore, while there may be some limited value to the idea of using comparability as a link to the market-controlled sectors of the economy, there are large parts of the public sector for which that use is not feasible. In view of this fact, the following discussion will proceed on the basis that comparability as a check on public sector remuneration can be applicable to only part of the public sector.

In this context, the effect of two abortive attempts by the federal government to amend the Public Service Staff Relations Act[6] must be considered. The intention behind these attempts was to make comparability an absolute ceiling on public sector collective bargaining. In two sessions of Parliament in 1978, legislation was introduced to establish "an equitable comparison of the aggregate of compensation for similar or analogous occupations or work" as the primary criterion for arbitration or conciliation.

The difficulty with relying on comparability to perform this function is not just the political storm it produced. Public sector unions saw it as collective bargaining by computer and the end of bargaining as they had known it.[7] The legislation also ignored the dilemma, discussed above, that "similar or analogous occupations or work" do not exist for large sections of the public service. In addition, the legislation permitted comparison with other government services, and even with other parts of the federal public service itself. But the reliance on second-best comparisons cannot resolve the difficulties of finding analogous occupations, and may mean that compensation across the public service would be based on only a very few external comparisons. Moreover, the right to choose between arbitration and conciliation (followed by strike) is retained by unions in the federal sector, and the likely result of placing such fetters on arbitration would simply be to drive most unions to the conciliation/strike route. In that situation, the normative effect of third-party intervention is provided only by the non-binding report of the conciliation board, and the union is free to strike for more than was recommended; in a very short time, the conciliation process would be rendered useless.

Finally, the legislation ignored critical issues of methodology. The actual survey techniques for collecting and costing data relating to the private sector would have been left to a new National Pay Research Board, which would presumably have utilized the personnel and expertise of the existing Pay Research Bureau. All of the difficulties of interpreting the existing board's reports and applying them to a particular dispute would have remained under the new legislation. For instance, how are the outside organizations to be selected for comparisons of the aggregate of compensation? How are such elusive factors as the alleged greater employment security in the public sector to be costed, if at all? Should the government be regarded as a 'good employer' and be expected to pay more than the minimum remuneration found in the representative selection of outside employers? If so, should the amount that the government pays be equal to the average, the 75th percentile or the maximum? With all of these questions left unanswered, it was clear that the legislation before Parliament was intended to make comparability the primary factor in public sector wage determination, without solving any of the difficulties inherent in the use of the criterion.

Comparability as a Yardstick for Public Sector Bargaining

The second function of comparability is that of a norm against which to measure how closely the results of public sector collective bargaining match the results of collective bargaining in the private sector. If the private sector ought not to subsidize the public sector, nor vice versa, then compensation in the two sectors should be approximately equal. So important is this issue, both politically and economically, that a chapter in this book has been devoted to it.[8] Economists must determine whether it is possible to make meaningful comparisons between public and private sector compensation, given the difficulty of costing some non-wage items and the movement in individual wage rates which makes any static measurement technique untrustworthy. It certainly is worthwhile to try to make such measurements. If they show gross differences of compensation in one sector as compared to another, corrective action may be appropriate. In making these measurements, however, it is necessary to consider all of the factors, reviewed above, which tend to produce inaccuracies in any such calculations when any particular application is attempted.

Comparability as a Criterion for Third-Party Intervention

The most important way in which comparability is used in public sector collective bargaining is as a criterion for interest arbitration. Used this way, the concept of comparability has a practical effect on collective bargaining and is, therefore, the most interesting for this chapter. Even when third-party intervention is not binding, as in the reports of conciliation boards, there has been a surprising unwillingness in several sectors to reject a unanimous, or even a majority, award of a conciliation board. Therefore, reference to comparability by such boards will have a direct impact on the outcome of collective bargaining disputes.

Despite the importance of this use of comparability, however, there remain very serious problems with its actual application. The literature is replete with discussions of the behavioural problems of third-party intervention, and one can find everywhere criticisms of interest arbitration, based on the impact that the choice of it as the dispute-resolution technique has on the actual management of the dispute by the parties.[9] On the other hand, the literature relating to the difficulty of selecting and applying normative criteria in interest arbitration is considerably shorter. Discussions of the difficulty of developing systems for arraying criteria and for weighting them in application,[10] and of the different problem of measuring and applying the comparability criterion,[11] are referred to above. In a study of a number of leading interest-arbitration decisions in Ontario, George Adams found serious difficulties in identifying defined criteria and emphasized the problems involved in detecting any coherent public policy in interest-arbitration decisions.[12]

In this chapter, a different proposition is advanced, namely, that arbitration faces process problems because classical adjudicative arbitration may not be the correct form of dispute resolution with which to settle the kinds of disputes submitted to it, and that the behavioural issues raised in the literature may actually arise from an incorrect choice of procedure. For support for this proposition, one might turn to the sociological and jurisprudential theories of dispute resolution, which certainly suggest that the choice of classical adjudication as a dispute-resolution technique for collective bargaining impasses is wrong. Moreover, while arbitrators sometimes depart from a purely adjudicative process, it may be that too much emphasis is, nevertheless, placed on the accuracy of the criteria, such as comparability, developed for use in adjudication.

This discussion, which may appear to diverge from a criticism of the comparability criterion, is, in fact, complementary to it. A study of decision making is complete only when the rules by which decisions are made are studied along with the institutional aspects of the process by which the rules are applied. Ideally, the choice of the dispute-resolution process and the criteria upon which it operates should be tailored to the kind of dispute to be resolved.

A Choice of Process: Consensual or Dissensual

There may be identified, from the literature of the sociology of law, two different kinds of dispute, which may be called 'consensual' or 'dissensual'.[13] The dissensual dispute is the one best known to lawyers and judges. The hallmark of the dissensual dispute is that the contact between the parties is usually fleeting, and that the parties have no ongoing relationship or mutual interests to preserve in the course of negotiating their way out of the dispute. In other words, what they have in common is primarily the dispute itself. Generally speaking, dissensual disputes rapidly become matters of principle, requiring resolution by reference to some kind of normative framework of what is 'right' or 'wrong'. Usually, the outcomes of dissensual disputes will be such as to make the resolution a zero-sum game. Perhaps the best example of a dissensual dispute is the collision of two automobiles at an intersection, the drivers of which are strangers to each other.

Consensual disputes, on the other hand, are characterized by a continuing relationship, where the stability of that relationship is a factor that must be given weight and often may be more important than any particular issue of principle. While some aspects of the dispute may involve one party winning and the other losing, consensual disputes are not normally a zero-sum game. In many circumstances, a loss by one party may actually diminish the victory of the other party, or vice versa, and both parties may stand to gain by abandoning positions to which they might be entitled by reference to 'principles' or 'rules'. The stereotypical consensual relationship is marriage, in which all reasonable people recognize that winning every minor dispute as it arises may undermine the very foundation of the consensus.

Adjudication is an appropriate dispute-resolution technique for dissensual disputes. In such cases, appeal to a normative framework may resolve the problem, and the parties will quickly begin to shape their dispute into arguments based on the 'righiness' or 'wrongness' of their respective positions. Once a dispute has become a matter of principle, any attempted mediation may become very difficult, and mediative dispute-resolution techniques are usually not an acceptable solution to dissensual disputes. The general human tendency to regard compromise on matters of principle — that is, on matters of right and wrong — as somehow dishonest will make the parties particularly resistant to mediation. An attempt to mediate may even increase their determination to seek an adjudicative solution.[14]

On the other hand, mediation is an appropriate resolution technique for a consensual dispute. Since the motivation of the parties is to settle honourably, rather than to stand on principle, compromise should be the very hallmark of the solution to a consensual dispute. That is not to say that norms will not be required. Indeed, some kind of normative framework may be particularly valuable to a mediator as a guide for persuading the parties to abandon unreasonable positions so that they can more closely and more quickly approach agreement. But, in general, consensual disputes respond better to accommodative resolutions than to those based on accurate and faithful adherence to normative interests.

Obviously, labour disputes are consensual, not dissensual. The only area in which collective bargaining can be said to be clearly a zero-sum game, and then only within very narrow limits, is in the determination of remuneration; all of the other areas of the collective bargaining relationship are essentially consensual.[15] Indeed, the necessity of maintaining an ongoing relationship seems to militate against the choice of any dispute-resolution technique that elevates norms to the status of principles. Therefore, if these assumptions are correct, mediative solutions to collective bargaining problems should be better than adjudicative ones. Moreover, this conclusion is also supported by the jurisprudential literature on the limits of adjudication.

The Limits of Adjudication

Jurisprudence, or the philosophy of law, offers theories about the operation of the adjudicative process that may help us to understand why it is an inappropriate mechanism for resolving collective bargaining disputes. The first problem that must be recognized is the very special and onerous burden society places on decisions which purport to be adjudicative. A leading American legal scholar, discussing the mechanisms for social ordering in a sophisticated political system, has stressed that adjudication must meet a very high test of acceptability:

> Adjudication is, then, a device which gives formal and institutional expression to the influence of reasoned argument in human affairs. As such it assumes a burden of rationality not borne by any other form of social ordering. A decision which is the product of reasoned argument must be prepared itself to meet the test of reason. We demand of an adjudicative decision a kind of rationality we do not expect of the results of contract or of voting. This higher responsibility toward rationality is at once the strength *and the weakness* of adjudication as a form of social ordering.[16]

To a large extent, the very considerable degree of criticism to which the outcomes of the interest-arbitration process have lately been subjected can be said to arise from a generalized disappointment that the [illegible]ions of interest arbitrators rarely meet the standard of rational[illegible] is expected from an adjudicative process. Clearly, if there a[illegible]y articulated and readily applied criteria, arbitration award[illegible] rarely, if ever, meet the standards of rationality found in judicial decisions or grievance-arbitration awards, where rules are more clearly defined.

One of the main difficulties of adjudication in interest arbitration is the problem of polycentric tasks. Sometimes the outcome does not depend only on two parties, each claiming that one is right and the other wrong, but instead must respond to a number of tensions of varying force. Where there are many possible outcomes, and where each outcome might affect the parties in quite different ways, resolution of the problem by simple adjudication becomes increasingly difficult. A classic example of a polycentric problem is a dispute between two parties to collective bargaining who agree that the internal wage scale is out of balance and have agreed on a fixed sum to correct the imbalance, but who have not agreed on the application of increases among the various levels in the wage scale. For example, an arbitration award affecting service employees in a hospital will, of necessity, have an impact upon the relative position of nurses, technologists and, possibly, even doctors. Similarly, unless the award is made on a jurisdiction-wide basis, it will have a direct impact on the relative position of service workers at other hospitals and an indirect impact on other health-care workers at those hospitals. When the requirement, entailed by the comparability concept, that the award relate to collective bargaining outcomes in the private sector is added to the feature of public sector polycentricity, it is clear that much is being asked of adjudication in interest-dispute resolution.

The classical solution to the polycentric labour-relations problem discussed above is the tripartite arbitration board, which is described as follows:

> This is what I have called a "mixed" form of adjudication. In fact the device as I have stated it amounts to a mixture of adjudication and negotiation. All mixed forms have their dangers, and tripartite arbitration is no exception. The danger lies in the difficult role to be played by the flanking arbitrators. They can be neither wholly advocates nor wholly judges. They cannot perform their role adequately if they are completely impartial; it is their task during the deliberations to represent an interest, a point of view. It may be that they will wish to communicate with the parties they represent to inform themselves of the implications of some step proposed — though whether they should feel free to indulge in such consultations, and if so, to what extent, is one of the ambiguities that plague this form of arbitration. If, on the one hand, each of the flanking arbitrators must represent the party who appointed him, he must at the same time observe some of the

restraints that go with a judicial position. If he runs back and forth between those he represents and the meetings of the arbitration board, reporting freely everything that happens during those meetings, the adjudicative process breaks down and there is substituted for it an awkward form of bargaining — in a situation, be it remembered, where negotiation has already failed to produce a solution.[17]

Informal Alternatives to Adjudication

The widespread use of tripartite arbitration panels for adjudicating interest disputes in many public sector labour disputes might seem to be a retreat from the classical adjudicative model and a movement towards 'mixed' adjudication. This is, unfortunately, not the case. A look at one of the most controversial sectors for binding third-party resolution of interest disputes, namely, the public hospitals and nursing homes in Ontario, will indicate that more and more arbitration decisions are majority decisions written by the chairman, concurred in by one nominee and dissented from by the other. Indeed, in recent years there has been a tendency for both nominees to dissent more frequently. In such circumstances, regardless of what mediation or negotiation method the tripartite board has offered, it has been abandoned in favour of an adjudicative pronouncement by the chairman. However, the mixed form does sometimes offer the opportunity to introduce a negotiation aspect into interest disputes. There are also some arbitrators who advocate a purely mediative role for boards of arbitration in interest-disputes resolution. In the public hospital sector in Ontario, for example, one arbitrator who regularly chairs interest-arbitration boards has recently expressed the view that such boards should function only in a mediative role, and that the primary criterion to be served is to construct a bargain which, as much as possible, reflects what the parties themselves could agree to.[18] On the other hand, this view has not yet been met with general acceptance,[19] and in circumstances where the parties do not agree to mediation, as opposed to adjudication, serious issues concerning the jurisdiction of the board of arbitration may arise.

One considerable obstacle to the imposition of mediation techniques on the parties to an ostensibly adjudicative process is the decision of a respected judge of the Ontario Court of Appeal, who acted as an arbitrator with respect to a teachers' strike in Metropolitan Toronto.[20] In that case, the judge flatly refused to involve himself in any mediation efforts, characterizing them as being total-ly inappropriate to the arbitration process. Moreover, he indicated that he also thought it improper for an arbitrator to 'split the difference' between the positions advanced by the two parties at the arbitration hearing, since such an approach was essentially mediative and, hence, the arbitrator would not, in his view, be acting judicially. Since a failure to act judicially is the classic test for judicial review of arbitration awards, these comments must hang like a pall over any informal attempts to change the nature of arbitration in Ontario from being essentially adjudicative to essentially mediative. Moreover, there will be considerable resistance to any such attempts by the parties themselves. There is often a need for normative input, even in consensual dispute-resolutions and especially in union-management relationships. This point is discussed as follows:

> While often founded largely in bargaining power, such negotiation is also likely to involve a strong claim-of-right element. This normative or claim-of-right element may be involved because the proposal for readjustment arises out of a past dispute that remains unsettled or was settled in a manner that one party regards as unsatisfactory. More fundamentally, since the actors are locked into a relationship with one another, and typically cannot deal with third parties to satisfy those needs that fall within the ambit of the relationship, each may believe himself *entitled* to those changes in the terms of the relationship that are required to keep it fair in light of changing circumstances. Finally, since each actor can punish as well as reward, and since the prosperity of each depends on the other's continued viability, getting one's way through the use of bargaining power, unalloyed by persuasion based on either norms or appeals to the other actor's self-interest, may be highly inadvisable.[21]

Indeed, the parties to such disputes often attempt to elevate issues of remuneration to matters of principle, since the adjudicative process seems better able to deal with arguments based on a clearly normative structure, rather than on accommodation. A good example of this is provided by the cases, both in Ontario and elsewhere in the country, in which the relationship between the remuneration of nurses or other workers at hospitals and in nursing homes has been raised to the level of an argument about a principle, namely, parity. The cases on parity have the very distinct ring of adjudication, and the parties to those disputes, by inventing and then arguing for or against a principle, are attempting to bind the arbitrators to that principle.[22] Parity is, of course, only the concept of comparability turned into an article of faith. Thomas Franck puts the issue in a delightful metaphor, which is evocative of the experiences of many interest arbitrators:

> The adjudicative species of *third party lawmaking*, its particular genius, encourages both parties to a dispute to construct rival cathedrals of contention, supported by massive flying buttresses of evidence, and thrusting aloft towering spires of logic, thus presenting a neutral third party with the most dramatically structured choice: *yes* or *no*, *right* or *wrong*, *win* or *lose*. The onus is on the parties to construct the choice, to be the principle mover in the process. The court must only watch, and at the end, choose.[23]

Formal Alternatives to Adjudication

Before concluding, it is worthwhile to take a brief look at the two recommended formal alternatives to adjudicative interest arbitration, final-offer selection and mediation-arbitration. For the purposes of comparison, it is fair to say that each of these two resolution techniques de-emphasizes the importance of the normative criteria usually used by adjudicative arbitrators and, in particular, the importance of the comparability criterion. While these schemes have usually been recommended as a way of solving the behavioural difficulties of interest arbitration, they also satisfy some of the requirements for the injection of an element of mediation into the dispute-resolution process, as apparently required by sociological and jurisprudential literature. The schemes impose this mediative content, however, in completely different ways.

To begin with, final-offer selection is designed to re-impose some costs of disagreement on the parties and, thus, induce them to conclude an agreement by direct negotiation. All of the commentators on collective bargaining — academics, professionals and practical participants — agree that a negotiated settlement is preferable to one imposed by a third party. Thus, the availability of final-offer selection, where it has a reasonable chance of producing such a result, is a desirable development. On the other hand, there are some distinct characteristics of the process which must be weighed when choosing it as an impasse-resolution mechanism. As one study indicates, the differences between selection and arbitration are critical to their operation:

> In conventional interest arbitration, the arbitrator issues an award in which he effectuates his judgment of the compromises that the parties could not or would not effectuate at the table. The overriding purpose of the final-offer procedure, however, is to induce the parties to make their own compromises by posing potentially severe costs if they do not agree. In other words, a successful final-offer procedure is one that is not used; one that induces direct agreement during the proceedings; or, using a less rigorous definition of success, one that substantially narrows the area of disagreement. And when the procedure is used, the function of the arbitrator is to operationalize its potential costs by deciding against the party that advocated the less reasonable offer(s). In other words, the final-offer mechanism is intended to promote the give-and-take of good-faith bargaining by acting as a "strikelike" substitute rather than to serve as a mechanism by which arbitrators may exercise their discretion.[24]

In addition, the authors conclude that final-offer selection may be least effective in narrowing the area of disagreement in those cases where the issues require a 'yes or no' determination, that is, where questions of principle, rather than mere disputes of interest, are involved.

It may be preferable to characterize the two procedures according to their results. While this may involve a rather simplistic analysis, it may nevertheless be instructive, as long as it is clearly recognized as being an over-simplification. I would identify the output of conventional arbitration as pure *result*, while the outcome of final-offer selection is pure *process*. In other words, the underlying purpose of ordinary arbitration is to attempt to reproduce the result which face-to-face negotiations would yield, were they carried through to fruition under all of the dynamic tensions of bargaining, including the use of economic sanctions. On the other hand, the purpose of final-offer selection is to reproduce the very texture of the collective bargaining process, including a serious cost of disagreement, in order to apply pressure on the parties to negotiate their own bargain. In an effort to avoid the economic and social costs of the use of the strike option, each of the two mechanisms attempts to simulate an aspect of the strike-influenced bargaining system.

Unfortunately, however, result and process have turned out, at least in simulation, to be mutually exclusive aspects of strike-influenced bargaining. When the result is stressed by opting for arbitration, the process suffers from the problems described in the behavioural literature; the costs of disagreement are removed and the parties do not bargain. When the process is enhanced in final-offer selection, the very characteristic of the mechanism which increases the cost of disagreement (the threat of losing completely) decreases the possibility of producing a result that is reasonably acceptable to the parties, and may, therefore, discourage a stable and harmonious relationship between the parties during the implementation of that result. Although there are methods of easing this effect, such as a provision for alternative offers from each side or the use of 'issue-by-issue' selection, the effects that selection has on process remain to some extent.

If this analysis is correct, final-offer selection is most likely to be effective in disputes where process is critical and the result is less important. For the most part, these will be circumstances in which the parties are far apart on matters on which incremental movement is still possible, and which involve economic issues, such as salaries, fringe benefits and related terms of employment that can be reduced to a dollar value. Such disputes are really disputes of interest, and only the naïve person would suggest that any real questions of principle are involved in what is essentially a matter of quantifying a bargain and costing its impact. There is, therefore, no room for a principled refusal to compromise, and no reason why the imposition of process costs of disagreement through final-offer selection cannot produce, if not a settlement, then at least movement towards settlement that will bring both final offers within the range of an acceptable solution.

On the other hand, final-offer selection is less likely to be effective when the parties are far apart on matters where no incremental movement is possible, such as matters of principle or of fundamental importance, where only two positions are available. These issues, which will often be structural ones affecting the nature of the bargaining relationship, do not lend themselves to compromise or to any softening of the positions, no matter what pressures are brought to bear; one does not, after all, compromise on matters of principle. Therefore, where structural issues, such as grievance procedures, joint administration schemes, management rights, and other matters basic to the ongoing relationship, are at issue, the parties should avoid final-offer selection unless they are convinced that their positions afford them sufficient flexibility to be able to trade off some issues for others, in order to effect a compromise settlement.

Unfortunately, it is in the very cases where final-offer selection is least likely to be effective that the worst consequences of failure are probable. Since final-offer selection is less concerned with the result than with the process, the result of a dispute which goes to selection is less likely to be mutually acceptable. As a consequence, the stability of the continuing relationship between the parties is likely to depend upon structural clauses which are unacceptable to one side. Such a situation is clearly fraught with the danger of strikes and ill-will during the term of the agreement and during the next round of negotiations. (The categorizations which I have used are, of course, arbitrary, and exceptions to these propositions will, no doubt, exist. I think, however, that it is fair to say that final-offer selection will be most effective on purely economic issues and least effective on purely structural issues. Where the cross-over point will come in complex disputes involving both kinds of issues is a question that only experience and careful study will be able to answer.)[25] Similarly, the use of mediation-arbitration involves difficulties with the process, even where the jurisdictional issues mentioned above can be overcome by either judicial restraint or statutory authorization. The difficulty always is to juggle the contradictory rules governing the roles of arbitrator and mediator without, as it were, dropping and damaging either. The optimistic view is taken in a recent arbitration award, as follows:

> On the other hand, a mediator who will ultimately, if necessary, become arbitrator can exercise much greater leverage. I am not suggesting that a mediation/arbitration is an exercise in power — agree to it or else I will impose it on you. A mediator/arbitrator must be mindful of the requirements of natural justice; in particular, he must have an open mind and appear to have an open mind until the proofs and arguments are complete. Nevertheless, the suggestions of a mediator/arbitrator, however mild the form of their expression, and however couched in appropriate caveats, are given great weight by the parties. His suggestions operate both positively in the sense that these become the basis of a resolution because the parties adopt them, or negatively, and to equally good advantage, by alerting the parties to the mediator's train of thought, which they may both find quite unacceptable.[26]

The other side of the coin, the pessimistic view, is captured in this paraphrase:

> Fuller warned of the consequences of failing to heed the distinctive character of a form of social order. The price to be paid in the case of adjudication, for example, is a dual one. A judge who first tries to mediate (and thereby "learns" the facts of the

case) and then seeks to determine the facts as an adjudicator may not only fail as factfinder but also forfeit some degree of impartiality, thereby tainting the process. Similarly, to assign adjudicators "polycentric" tasks (those calling for managerial control of diverse yet interdependent factors) is not only to put the achievement of those tasks at risk but to compromise the integrity of adjudication as well.[27]

Conclusions

What can we abstract from all of this theory, which remains nebulous even when it is applied to practical cases? The first lesson that can be learned is that it is wrong to expect any single technique of dispute resolution to deal adequately with all of the various kinds of disagreements which can surface between different parties in the same economic sector, or even between the same parties in different rounds of negotiations. The third-party interveners in collective bargaining disputes need a complete arsenal of weapons if we are to expect them to resolve those disputes with a degree of fidelity to the standards imposed upon them and with a degree of satisfaction for the parties involved.

Secondly, it seems that the concerns regarding process, mentioned above, argue in favour of a reduction in the importance of normative components in third-party intervention and an abandonment of expectations that arbitration can achieve accurate normative results in every case. This is not to say that normative concerns can be completely abandoned, since there will obviously be the occasional need for reliance upon normative factors, even in purely mediative situations. There is nothing wrong with the use of norms, but a dispute-resolution process cannot attempt to reproduce them slavishly, nor even to adhere to them closely.

Thirdly, it is necessary to recognize that the margin of error in the calculation of the comparability criterion can be very high, and that the margin of error that is possible may be multiplied several times when a number of vague criteria are weighed together. Improved techniques to measure comparability would be helpful, as would better mechanisms for data collection and analysis, as well as the use of job evaluation to provide a proxy for comparability for jobs without an obvious comparator. However, it may be that only in the long run will errors even one another out sufficiently to produce a degree of adherence to the legislative purposes of the structure in which arbitrators operate.

In short, arbitration, or one of its alternative processes, can provide solutions to collective bargaining disputes, and in the long run, perhaps, a system of rational settlements to those disputes will evolve. To expect dispute-resolution techniques to bring rationality to an irrational world or to be more accurate than the tools available is, however, unrealistic.

Notes

1. See H. Parris, *Staff Relations in the Civil Service: Fifty Years of Whitleyism*, pp. 82–83, Great Britian, Royal Commission on the Civil Service 1953–55, and *Report*, Public Service Staff Relations Act, R.S.C. 1970, c. P-35, as amended.
2. See K.P. Swan, "Apples and Oranges: Comparability as a Criterion of Interest Arbitration".
3. See K.P. Swan, "The Search for Meaningful Criteria in Interest Arbitration".
4. See Swan, "Apples and Oranges".
5. *Ibid.*
6. Public Service Staff Relations Act (1970); Bill C-28, 3rd Session, 30th Parliament, First reading 8 March 1978; Bill C-22, 4th Session, 30th Parliament, First reading 21 November 1978.
7. See G. Levine, "Public vs. Private-Sector Compensation: A Trade Unionist's View", pp. 128–36.
8. M. Gunderson, "The Public/Private Sector Compensation Controversy", Chapter 1 in this work.
9. See B.M. Downie, *The Behavioural, Economic and Institutional Effects of Compulsory Interest Arbitration.*
10. Swan, "The Search for Meaningful Criteria in Interest Arbitration".
11. Swan, "Apples and Oranges".
12. See G.W. Adams, "The Ontario Experience with Interest Arbitration: Problems in Detecting Policy".
13. See V. Aubert, "Competition and Dissensus: Two Types of Conflict and of Conflict Resolution".
14. See T. Eckhoff, "The Mediator and the Judge".
15. See, generally, the distinction made between distributive (dissensual) and integrative (consensual) issues in R.E. Walton and R.B. McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System.*
16. L.L. Fuller, "The Form and Limits of Adjudication", pp. 366–67 (emphasis in original).

17. *Ibid.*, p. 396.

18. *Re Group of 46 Hospitals and Service Employees International Union*, unreported, 31 August 1982 (Teplitsky).

19. *Ibid.*, Dissenting opinion, 3 September 1982 (Lewis); *Re Heritage Nursing Home Ltd., and Ontario Nurses' Association*, unreported, dissenting opinion, 1982 (Perkins).

20. *Re East York Board of Education et al., and Ontario Secondary School Teachers Federation*, unreported, 3 March 1976 (Dubin).

21. M.A. Eisenberg, "Private Ordering Through Negotiation: Dispute-Settlement and Rulemaking", pp. 676–77 (emphasis in original).

22. See *Re Komoka Nursing Home Ltd., and London and District Service Workers Union, Local 220*, unreported, 1975 (Gorski); *Re Extendicare Ltd., et al. and Ontario Nurses' Association*, unreported, 24 March 1982 (Swan).

23. See T.M. Franck, *The Structure of Impartiality*, p. 183. I am grateful to Mr. R.D. Perkins, whose elegant dissents in the *Heritage Manor* and *Extendicare* cases (mentioned above) contain a thoughtful analysis of the nature of the adjudicative process, for reminding me of Professor Franck's book.

24. See G. Long and P. Feuille, "Final-Offer Arbitration: 'Sudden Death' in Eugene", p. 202.

25. This description of the final-offer selection process is adapted from my award as selector in *Re Haldimand Board of Education and Ontario Secondary School Teachers Federation*, unreported, 14 April 1977 (Swan).

26. *Re Group of 46 Hospitals and Service Employees International Union*, pp. 8–9.

27. R.S. Summers, "Professor Fuller's Jurisprudence and America's Dominant Philosophy of Law", p. 445.

Bibliography

Adams, G.W. "The Ontario Experience With Interest Arbitration: Problems in Detecting Policy" in *Interest Arbitration*, edited by J.M. Weiler, pp. 133–74. Toronto: Carswell, 1981.

Aubert, Vilhelm. "Competition and Dissensus: Two Types of Conflict and of Conflict Resolution". *Journal of Conflict Resolution* 7 (March 1963): 26–42.

Downie, B.M. *The Behavioural, Economic and Institutional Effects of Compulsory Interest Arbitration.* Discussion Paper No. 147. Ottawa: Economic Council of Canada, 1979.

Eckhoff, Torstein. "The Mediator and the Judge" in *Sociology of Law*, edited by Vilhelm Aubert, pp. 171–81. London: Penguin, 1969.

Eisenberg, Melvin A. "Private Ordering Through Negotiation: Dispute-Settlement and Rulemaking". *Harvard Law Review* 89 (February 1976): 637–81.

Franck, T.M. *The Structure of Impartiality*. New York: Macmillan, 1968.

Fuller, Lon L. "The Form and Limits of Adjudication". *Harvard Law Review* 92 (December 1978): 353–409.

Great Britain. Royal Commission on the Civil Service 1953–55. *Report*. Cmd. 9613. London: HMSO, 1955.

Levine, G. "Public vs. Private-Sector Compensation: A Trade Unionist's View". *Relations industrielles* 35 (No. 1 1980): 128–36.

Long, Gary and Feuille, Peter. "Final-Offer Arbitration: 'Sudden Death' in Eugene". *Industrial and Labor Relations Review* 27 (January 1974): 186–203.

Parris, H. *Staff Relations in the Civil Service: Fifty Years of Whitleyism*. London: George Allen and Unwin for the Royal Institute of Public Administration, 1973.

Summers, Robert S. "Professor Fuller's Jurisprudence and America's Dominant Philosophy of Law". *Harvard Law Review* 92 (December 1978): 433–49.

Swan, K.P. "Apples and Oranges: Comparability as a Criterion of Interest Arbitration" in *Interest Arbitration*, edited by J.M. Weiler, pp. 267–83. Toronto: Carswell, 1981.

Swan, K.P. "The Search for Meaningful Criteria in Interest Arbitration" in *Dispute Resolutions: Public Policy and the Practitioner*. Washington, D.C.: SPIDR, 1978. Reprinted as Queen's Industrial Relations Centre Reprint Series, No. 41 (1978).

Walton, Richard E. and McKersie, Robert B. *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*. New York: McGraw-Hill, 1965.

10: *Grievance Arbitration in the Public Sector*

KATHERINE SWINTON

Katherine Swinton is Associate Professor, Faculty of Law, University of Toronto.

Contents

Introduction **343**
Institutional Design **344**
Access to Arbitration **349**
Jurisdictional Issues **351**
  The Problem of Disguised Discipline **351**
  Legality Issues **355**
The Role of the Arbitrator in the Public Sector **358**
Conclusions **362**
Notes **364**
Bibliography **370**

Grievance Arbitration in the Public Sector

Introduction

Grievance resolution in the public sector is a topic of study that has been neglected by academics. While there have been some descriptions of rights arbitration in the public sector,[1] there has been little in the way of analysis of the process and jurisprudence. Instead, academics have focused their attention on the more controversial subjects of the right to bargain and the control of conflict through mechanisms such as the designation of certain employees as essential to the safety and security of the public, fact-finding, final-offer selection, and improvement of the interest-arbitration process. Yet, an effective procedure for settling disputes during the life of a collective agreement is important to the work environment, as employee complaints which are left unresolved for lengthy periods foster discontent and a loss of morale.

The public sector's response to the need for an effective grievance procedure to handle the complaints of the large complement of workers in the public service is the subject of this chapter. In at least some jurisdictions, public sector arbitration differs from that in the private sector in several ways: the design of the arbitration process, legal restrictions on how arbitrable an issue is, individual rights of access to arbitration, and the higher profile of the decision-making process because of the public interest aspect of many cases. Rather than embark on a descriptive survey of the process in each jurisdiction, I have concentrated on a discussion of the similarities and dissimilarities of the public and private sectors. Many of the examples and conclusions in this chapter are drawn from the experience in the federal and Ontario public service, where statutory tribunals have been established to adjudicate grievances, and legislation has both granted rights of access and circumscribed the subjects which may be grieved.

Institutional Design

When collective bargaining for public servants was introduced, there were existing mechanisms to resolve employee grievances. In Ontario, an employee could express to a Public Service Grievance Board complaints regarding dismissal, working conditions and terms of employment, and could voice classification complaints to a Classification Rating Committee;[2] a federal public servant could voice to the Public Service Commission complaints regarding dismissals, suspension, promotion, transfer and demotion.[3] These rights of appeal had not been readily granted by the employer; indeed, appeal rights were long resisted, allegedly in order to protect the merit system.[4] In Ontario, the Grievance Board and the Classification Rating Committee were not established until 1959 and 1961 respectively;[5] on the federal level, non-statutory rights to appeal to the Civil Service Commission over promotions and denial of annual increments, granted in 1939 and 1944 respectively, were not extended to encompass a wide variety of administrative action, including discharge and dismissal, until 1961.[6]

When collective bargaining legislation was first introduced in the 1960s and 1970s, arbitration replaced the appeals procedure in many rights disputes. In designing the arbitration tribunal, policy makers had to take into account the importance of the acceptability of the decision makers to the parties and the potential problem of a large case load developing because of the number of government employees. Various models were adopted throughout the country, with varying degrees of similarity to that in the private sector.

The institutional model for arbitration in the private sector is the *ad hoc* board, frequently tripartite in nature, with nominees of the parties empowered to select a neutral chairman. That selection is governed by consideration of the chairman's skill in a particular area or of his or her record in past cases of the same type. It is true that some collective agreements may provide a permanent umpire or designate a panel of acceptable arbitrators, but the *ad hoc* approach is most common. In some jurisdictions, the private sector model is carried over, with minor changes, to the public sector. This is true in Nova Scotia, for example, where the Civil Service Employee Relations Board appoints the adjudicator if the parties are agreed on a decision maker. If they cannot agree, the board selects the adjudicator.[7] In other provinces, the *ad hoc* approach is reduced through party designation of a panel of arbitrators. In British Columbia, the Labour Relations Board makes appointments from a panel selected by the parties, while in Alberta the parties have provided, in their collective agreement, for a Public Service Grievance Board, with a chairman and, at present, two vice-chairmen, who are appointed at the pleasure of the Public Service Commissioner and the president of the Alberta Union of Provincial Employees.[8]

In other jurisdictions, such as the federal level and in Ontario and New Brunswick, public service labour laws create a statutory arbitration mechanism with a fixed panel of arbitrators.[9] At the federal level,[10] adjudication, under the Public Service Staff Relations Act, is invariably carried out by a single adjudicator, who is either a part-time or a full-time member of the Public Service Staff Relations Board (PSSRB),[11] and one of its three deputy chairmen is designated to supervise the administration of the adjudication process. The parties have the option in their collective agreement of choosing an adjudicator, but none has been so named since the enactment of the legislation.[12] Under the Ontario public service legislation, by way of contrast to the federal Act, the parties have no ability to opt out of the statutory system. The Crown Employees' Collective Bargaining Act[13] establishes a Crown Employees' Grievance Settlement Board (GSB), which is made up of a panel of non-partisan persons (a chairman and numerous vice-chairmen) and panels of employer and union nominees, all of whom are part-time members. A three-person panel, representative of each of the three groups, sits on a case; the panel is sometimes selected by the chairman, but is normally selected by the registrar and his staff.[14] In both sectors, the adjudicators often sit in the private sector, as well as in the public sector.

The rationale for the use of a permanent tribunal, or panel, in some jurisdictions is not a subject which has received a great deal of attention. In part, the reasons for the choice of a tribunal may be historical, an outgrowth of the permanent grievance boards and classification-review committees that existed in the public service prior to the advent of collective bargaining. There are, nevertheless, more persuasive arguments for their use. In both the federal and Ontario governments, hundreds of grievances are filed each year.[15] A panel may expedite the hearing of disputes, since the parties are not required to search for a chairman for each case and then accommodate to the dates that he is available.[16] Instead, an administrator can schedule any one of a number of chairmen for a case, accommodating their schedules to the parties' ability to proceed with the various cases. A panel is also said to promote continuity and consistency in decision making, values especially important in an employment environment which involves thousands of workers.[17] While public servants are spread across many bargaining units,[18] there are some common collective agreement terms, and statutory provisions are generally applicable. For purposes of equity, like cases should be treated alike, and in order to guide management decision making and to encourage settlement, consistency in decisions is a necessary objective. A panel member who regularly deals with the collective agreements and statutory framework will acquire familiarity with public sector jurisprudence. If the panel of adjudicators develops a doctrine of precedent, continuity is more likely to be observed than if *ad hoc* boards, which must repeatedly be educated in the jurisprudence, are selected.[19] An additional benefit of the panel members' familiarity with the jurisprudence, as well as with the collective agreement and the applicable statutes, should be the expediting of cases. As subsequent parts of this chapter will show, unique problems of a jurisdictional nature frequently arise in the public sector, as do certain unusual types of cases, such as classification disputes in Ontario. Knowledge of the requisite statutory provisions and the issues involved can save time in adjudicating such cases.[20]

Of course, the case for a panel can be overstated, and it is arguable that consistency is achievable with *ad hoc* arbitrators, provided that decisions of other arbitrators acting for the parties are presented by counsel and a doctrine of precedent is developed. In addition, use of a panel does not guarantee consistency, particularly if panel membership is large and previous decisions are neither well documented nor available to all decision makers. In discipline cases, individual attitudes will inevitably affect the outcome, and consistency is less likely to occur in collective agreement or statutory interpretation cases.

The effectiveness of a panel and the way in which its operation may vary with its composition are illustrated by the history of the Ontario Grievance Settlement Board. When this board was established in 1975, with a chairman and eight members representing the parties' interests, it was able to develop a close and relatively informal relationship with the parties. The board saw its role not only as adjudicative, but as educative as well, since the parties were inexperienced and were often represented by laypersons. As a result, its early awards are detailed and lengthy, and include descriptions of the proper procedures and the trends in arbitral jurisprudence. The board made a conscious effort to give unanimous awards, using the parties' nominees, who were drawn from the private sector, as important sounding boards and resources for both the parties and the chairman. With one chairman, the awards exhibited a consistent philosophy. This role and practice changed over the years as the board expanded significantly: one vice-chairman was added in 1976, four were added in 1977 and twenty-five in 1980. The panel now includes many arbitrators who adjudicate regularly in the private sector, and who sit infrequently at the Grievance Settlement Board. Parties do not see the same faces as often, and this change has led to a greater degree of formality at the hearings. There is also less cohesion among the panel members, and dissents from members have become commonplace, making the process more similar to that in the private sector and less of an educative, problem-solving exercise. Of course, the parties have become more experienced and, therefore, do not have the same need for the board's early educative efforts. However, some concern has been expressed about a lack of continuity in decisions, because vice-chairmen sit less often and some have less familiarity with the board's jurisprudence and the relevant statutes than others had in the past. The process of educating vice-chairmen has been spotty: current decisions are supplied to them, and those who joined in 1977 were supplied with all past decisions. An index to GSB awards is available, but it was last updated in March 1981, making access to recent awards difficult. The PSSRB shares the same concerns about continuity in decisions, but appears to do a better job of orienting new adjudicators, supplying them with a comprehensive and up-to-date index of adjudication decisions and current cases, as well as a booklet entitled "Adjudication Guidelines", which reviews major issues and cases and procedural information.

Just as the use of a panel has not ensured consistency in Ontario, some might suggest that the panel has not succeeded in expeditiously resolving the grievances referred to it. In Ontario and in the federal sector, the boards have, at various times, faced sizeable backlogs.[21] This creates discontent among those individuals who are required to wait lengthy periods before their complaints are resolved, and it can cause problems in gathering evidence, as witnesses' memories grow dim over the months. While the tribunals are often castigated because of their backlog, the parties themselves are not blameless. The PSSRB's backlog is explained, in part, by the parties' incapacity to process more than about thirty-five cases per month, despite the board's availability to hear more disputes. In addition, many cases on the list are unlikely ever to be processed when the outcome has already been determined by the disposition of a similar case, but the parties nevertheless prolong the process. The numbers are also inflated by the practice of a number of complainants filing individual grievances with regard to one incident, rather than consolidating the grievances into a group or policy grievance. In Ontario, some of the same problems exist: stale cases or those determined by other decisions are still on the list of cases to be processed. Also important in explaining the backlog is the significant increase of cases that occurred in 1979 when the major union, the Ontario Public Service Employees' Union, boycotted the GSB from April to November in a dispute with the government over replacement of the chairman.

Backlogs such as these create special problems for the board and the parties, and at both levels, innovative dispute-settlement mechanisms have been attempted. In 1980-81, two special tripartite committees, chaired by a mediator/adjudicator, were appointed on a one-time basis at the federal level to clear up a number of cases generated in the federal Post Office.[22] In Ontario there is ongoing grievance mediation: one vice-chairman, appointed after the 1979 boycott, hears no cases, but meets regularly with the parties to try to clean up the list by settling and consolidating grievances. His success rate is difficult to calculate, but one can infer that the reason for the withdrawal of substantial numbers of cases in the last few years is attributable, to a significant degree, to his efforts.[23]

When a backlog creates a problem, the panel has to consider whether its scheduling practices can be arranged to alleviate the build-up of cases. Should the parties be presented with a hearing date and ordered to have a case ready to present? Should the identity of the chairman who is scheduled for each day be confidential, in order to avoid timely adjournments by parties wishing not to appear before him or her? Should parties be allowed to adjourn on consent? In considering these questions, a panel must face the larger issue of the nature of its obligation: Is the tribunal appointed to facilitate the parties' relationship and serve their convenience, or is there a wider public interest to which the panel owes some consideration? The argument that the panel has some obligation to the public is particularly cogent when one realizes that the immediate parties do not bear the cost of arbitration or adjournments, aside from their own counsel fees. There is no provision for party payment of the costs of arbitration in Ontario; federally, the PSSRB could recover the costs of adjudication from parties, but it has never done so.[24] As a result, both at the federal level and in Ontario, the boards have developed some policies which appear to give weight to the public interest over that of the parties. An illustration is the practice in Ontario of avoiding advance notice of the composition of the board that is to hear a given case, in order to prevent timely adjournments, as described earlier. In Ontario, as well, parties are not routinely granted an adjournment to which they have both consented more than once, and an appearance before the GSB is required by a second adjournment.[25]

Access to Arbitration

Arbitration in the public sector, both on the federal level and in Ontario, differs from that in the private sector in the degree to which an individual employee's right of access to arbitration is given statutory recognition.[26] In the private sector, the union ultimately controls its members' access to arbitration; this practice is justified in the interest of preserving scarce manpower resources, controlling the costs of arbitration, and avoiding unfortunate and unwanted interpretations of the collective agreement. The union's abuse of its power is theoretically prevented by a statutory duty of fair representation.[27] The parties may choose to allow individuals to voice complaints about certain issues, such as discharge, and some have done so;[28] nevertheless, that is a collective decision.

In the federal sector, by contrast, the Public Service Staff Relations Act recognizes an individual employee's right to voice a grievance and to refer the grievance to adjudication in certain circumstances. An employee may voice a grievance about virtually anything, even matters not included in a collective agreement, such as the interpretation of a statute or other employer instrument affecting his terms or conditions of employment or the terms of a collective agreement or arbitral award, as well as any employer action affecting his employment, as long as no administrative procedure for redress is provided under an Act of Parliament,[29] and the grievance does not pertain to a government direction made in the interests of national safety or security.[30] The bargaining agent's interest in avoiding unfortunate interpretations of the collective agreement is acknowledged through the requirement of consent and representation, which must be met if the grievance pertains to the interpretation of a collective agreement or arbitration award.[31] Individual rights are guaranteed through to the stage of adjudication, although the scope is narrowed: the employee may refer to arbitration a grievance pertaining to the interpretation of a collective agreement or arbitral award only with his bargaining agent's consent and representation,[32] but he may refer a grievance concerning disciplinary action resulting in discharge, suspension or financial penalty at his sole option.[33] Grievances resting on a statutory base or falling outside the scope of the collective agreement and disciplinary warnings cannot be processed beyond the consultation stage. The statutory protection for individuals at the federal level also extends beyond those employees in bargaining units to include those employed in a managerial or confidential capacity.[34] Indeed, it was partly in order to give access to adjudication for those excluded from bargaining that the legislation conferred individual rights of access.

The Ontario public service legislation is similar to the federal legislation in its recognition of individual rights, although these rights extend only to employees within the scope of the Act and not to those who are excluded from bargaining. While the parties control grievances arising out of the interpretation of the collective agreement,[35] an individual has a statutory right to proceed to arbitration with regard to three types of grievances: improper classification of his position; appraisal "contrary to the governing principles and standards"; and discipline, dismissal or suspension without just cause.[36]

Thus, both on the federal level and in Ontario, the legislation acknowledges an individual's right to protect his "critical job interests".[37] In addition, individual right of appeal continues to be a public service tradition. The decision has significance for both parties and arbitrators, for individual ownership of a grievance undoubtedly increases the number of cases which proceed to arbitration. While unions normally process discharge cases, they might prefer to settle a short suspension grievance or a classification grievance because the costs of arbitration outweigh the benefits of settlement. Admittedly, this applies less in the public than in the private sector, as unions pay only counsel fees and none of the arbitration board's expenses. Nevertheless, in the public sector, they cannot settle certain types of cases, for the dissatisfied employee may proceed to arbitration even without union support, in order to clear his record.[38] As a result, the work-load of the arbitration board is increased.

The right of an employee to proceed to arbitration himself also puts some pressure on the union to represent him, even in what may appear to be a losing case. This does not always hold,[39] but there is some political compulsion to represent the employee at the hearing, particularly in a jurisdiction such as Ontario, where the bargaining agent is prohibited from striking. Grievance handling then becomes an important way of demonstrating to members that the union is active on their behalf.[40]

Statutory rights of individual access also raise problems of jurisdiction and issues of legality. To what extent can the union and the employer restrict individual access, whether through collective agreement provisions which impose time limits or through direct restraints on access? How do the rights under collective bargaining legislation relate to provisions in other public service legislation? Often the apparently broad rights of access provided by one statute are restricted by other statutes or by the interpretation of the statute's own terms, as the following section will demonstrate. As a result, jurisdictional disputes and illegality issues arise frequently in the public sector.

Jurisdictional Issues

The Problem of Disguised Discipline

Jurisdictional objections arise in many private sector hearings and take the form of challenges to timeliness or issues of an employee voluntarily quitting his job as opposed to being discharged. Often such arguments are a delaying tactic used by counsel and lack merit. In the public sector, however, jurisdictional disputes are frequent and often are well founded, for while public sector labour legislation may confer a right of individual access to arbitration, that right may be circumscribed by other terms of the legislation, by other statutes or by collective agreement provisions authorized by the Act. The Public Service Staff Relations Act, for example, allows an employee to refer to arbitration any disciplinary action that results in discharge, suspension or a financial penalty. However, a written warning cannot be arbitrated,[41] nor can an employer's demand to recover money from an employee who damaged government property,[42] as neither employer action is within the statutory jurisdiction of the arbitrator. Similarly, an employee cannot refer a grievance to arbitration where an administrative procedure provided under an Act of Parliament is available, or where the employer's action is not 'disciplinary' in nature. Therefore, a grievance regarding a lay-off for lack of work cannot be advanced, nor can a release for incompetence or the release of a probationary employee. In Ontario only, the release of a probationary employee is barred by legislation, provided that the action is not disciplinary in nature.[43]

The removal of staffing considerations, such as competence, lay-off or unsuitability of a probationer, from arbitral jurisdiction in the federal sector is justified by the merit principle. On the federal level, the Public Service Commission has final responsibility for appointment and promotion, and it is to be guided by the merit principle.[44] Instead of arbitrating disputes, there are internal appeal mechanisms through which decisions can be made regarding appointments from within the public service or demotions and releases for incompetence.[45] Similarly, classification complaints at the federal level can be appealed to a Classification Rating Committee, but cannot be referred to arbitration, for fear of interference with the established classification system.[46]

Nevertheless, because adjudication is available for disciplinary action, jurisdictional issues become common when an employee whose service is terminated or who is laid off alleges disguised disciplinary action. The cases on termination of probationary employees are illustrative. While section 91(1)(b) of the Public Service Staff Relations Act allows an employee to voice a grievance regarding discharge, section 28(3) of the Public Service Employment Act[47] allows a deputy head to "reject for cause" during the probationary period. Adjudicators have determined that rejection for cause is not equivalent to discharge: rejection may be for reasons of incompetence or inability to meet the requirements of the position, while discharge, in contrast, is disciplinary in nature and is triggered by wrongdoing on the part of the employee. Only disciplinary action can be objected to under the Public Service Staff Relations Act, while the suitability of an employee for permanent employment must be left to the consideration of the deputy head and the Public Service Commission under the Public Service Employment Act.

The jurisdictional distinction is easier to describe than to apply, for there may be cases in which it is argued that the employer has characterized the discharge of a probationer as a rejection in order to avoid a grievance and adjudication. This is a common plea when the conduct for which the employee is rejected may be deserving of discipline, as, for example, in the case of carelessness. Over the years, federal adjudicators have taken on the responsibility of determining whether or not an employee's rejection is, in reality, a discharge, and if so, whether the issue of just cause for the discharge will then be determined. The propriety of this approach has been upheld by a majority of the Supreme Court of Canada in the *Jacmain* case.[48]

A similar approach to the problem of probationary employees has been adopted in Ontario, where there is tension between section

18(2)(c) of the Crown Employees Collective Bargaining Act, which allows an employee to object formally to dismissal without just cause, and section 22(5) of the Public Service Act, which allows a deputy minister to "release" any public servant during his first year of employment "for failure to meet the requirements of his position". In interpreting the two sections, the Grievance Settlement Board adopted a view similar to that adhered to in *Jacmain*, namely, that a release is not arbitrable, but that disguised discharge is reviewable. Therefore an employee may seek recourse against a release in an effort to persuade the board that he has been disciplined, and if the board finds that there has not been a bona fide release for failure to meet the requirements of the position, the board will decide whether there was just cause to discharge.[49]

A similar jurisprudence has been adopted in other types of jurisdictional disputes in the federal sector. Release or demotion for incompetence under section 31 of the Public Service Employment Act is held not to be equivalent to a 'dismissal' or 'discipline' under the Public Service Staff Relations Act, provided that the employer acts in good faith, a proviso which is determined by an adjudicator. Similarly, in the case of a lay-off for lack of work or the discontinuance of a function under section 29 of the Public Service Employment Act, adjudication is available only if the lay-off is a disguised form of discipline.[50]

Arbitrators have a difficult task to define their jurisdiction under such collective bargaining legislation without infringing on the rights, found in the public service legislation, of deputy ministers and public service commissions. The test that has been devised, known as the 'search for colourable action', is not easy to apply, and it may lead to some perverse results. In deciding whether there has been a release or a rejection, the arbitrator is faced with the problem of conduct which may demonstrate unsuitability for the position, but which may equally be disciplinable. For example, imagine that a telephone receptionist is released for being surly to a supervisor's spouse and impolite to clients. Is this release really disciplinary?[51] Imagine also that in a different case, an employer imposes heavy demands on an employee, who makes errors because of the workload and pace. The employee claims that she could do the work if the volume were reduced. Again, is her release disciplinary?[52] There is a virtually endless supply of such examples, for there are many cases in which similar questions have been raised. In *Jacmain*, the majority of the Supreme Court of Canada appears to have taken the view that if there is evidence of conduct warranting release for incompetence or unsuitability, and if the employer acts in good faith, the release is to be upheld, even if the same conduct might be deserving of discipline. In other words, the employer should have the flexibility to rid itself of an unsuitable employee without having to face just cause review.[53]

Others have taken a different view of *Jacmain* and its progeny. Unions have urged arbitrators to focus on the nature of the employee's conduct which led to release. They recommend that if there is an element of voluntary malfeasance in that conduct, the arbitrator should characterize the release as disciplinary and engage in just cause review. There is reluctance to adopt that view, but a middle ground was sought in the *Keane* case in Ontario,[54] where a release for failure to meet the requirements of the formal job description for a position was held not arbitrable, while release for reasons other than job performance, such as tardiness and incompatibility with other employees, would be disciplinary and subject to just cause review.

Keane is not very useful, for it focuses too narrowly on the job description form, without considering elements of suitability for permanent employment which are not found in such a form, such as attitude, compatibility and punctuality. The more deferential attitude demonstrated by earlier cases and, in particular, by the majority in *Jacmain* acknowledges both employer and employee interests in a more appropriate manner. Indeed, arbitrators who too quickly characterize unacceptable conduct as wrongdoing, which is open to discipline, and then take jurisdiction create two classes of probationary employees, each of which has a different degree of protection. In the first class is the innocent or incompetent bumbler, who has no recourse to adjudication if there is no wrongdoing or voluntary malfeasance on his part, while, in the second class, the deliberate wrongdoer may be protected in his job by an arbitration board which takes jurisdiction and reviews for just cause. This seems to be an illogical result, although the extent of the perversity will depend on the arbitrator's view of the standard for review that is applicable to the dismissal of a probationary employee. Such a standard has usually been less onerous than that for a seniority-rated employee,[55] which may leave the wrongdoer with little more protection than the innocent incompetent employee.

In view of reasons of fairness to the individual, it is perhaps inevitable that arbitrators feel pressed to consider the validity of a release. This is seen as being well and good in the private sector, where there has been an ongoing debate about the legality of collective agreement clauses which bar probationary employees from objecting formally to dismissal, in light of the statutory requirement of a final and binding method of settling disputes over the interpretation of the collective agreement.[56] In the public service, the impetus for intervention is even stronger because of the lengthy probationary periods that are required: one year in Ontario, and at the federal level, from six to twenty-four months.[57] At the federal level, a person embarks on a new probationary period each time he is appointed to a new position, accepting with it the danger of release if he is unsatisfactory, regardless of his overall seniority.[58]

The restrictions on the arbitrator's jurisdiction often result in frustration for both arbitrators and parties, with arbitrators sometimes venting their feelings through editorial comments in awards to the effect that the employer should voluntarily correct an injustice.[59] These comments may be picked up by the media and by politicians, and this possibility has led Olsen to criticize the practice on the grounds that the arbitrator is in danger of being used as a propaganda tool by the parties, thereby exacerbating tensions between them.[60]

Legality Issues

Legality issues arise frequently in arbitration as more and more statutes affect the scope of collective bargaining; it is not only labour-relations law that must be considered, but occupational health, employment standards and human rights legislation as well. In the public sector, the labour-relations legislation and other public service legislation contain further complex constraints, both on the jurisdiction of arbitrators and on the parties' freedom to bargain, thus making legality issues a common problem in public sector interest arbitration, as well as in rights arbitration.[61] Again, the constraints are said to be necessary in order to protect the merit principle and the jurisdiction of the public service commissions. In addition, they are a statutory protection of management rights, designed to reduce the scope of collective bargaining and to prevent the erosion of these rights through bargaining or interest arbitration.

The jurisdictional provisions for arbitrators contained in the federal and Ontario labour-relations legislation have led to several disputes because of the parties' efforts both to expand and to constrain them. In the federal sector, parties have tried to extend the jurisdiction of adjudicators by adding clauses to a collective agreement to allow arbitration of issues that are not arbitrable under the Act. Their success rate has not been encouraging. In *Rivard*,[62] the collective agreement provided that a written warning could be made only with just cause. The complainant argued that an adjudicator had jurisdiction to hear the grievance under section 91(1)(a) of the Public Service Staff Relations Act, which allows grievances with regard to the interpretation of the collective agreement. However, section 91(1)(b) was not available, as it allows the employee to object only to dismissal, suspension or the imposition of a financial penalty, and a written warning did not come within the scope of these grounds for adjudication. Following the decisions of the Federal Court of Appeal in *Baril*,[63] Vice-Chairman Cantin held that he had no jurisdiction to hear a grievance over a written warning, as the adjudicator's jurisdiction is established by the Act and cannot be extended voluntarily by the parties. In terms of labour relations, this is an unhappy result, for it prevents the parties from adjudicating some disputes which may create tensions in their relationships.

Similarly, the fact that federal arbitrators and parties are also constrained in the kinds of settlements or remedies that are available creates frustration. For example, an employee whose discipline problem may be partly a function of his inability to get along with a specific supervisor cannot voluntarily be transferred to another department without running afoul of the Public Service Commission's mandate to make appointments only after the candidates have taken part in competition under the Public Service Employment Act. While this constraint is said to be necessary in order to protect the principle of merit, it leaves the employee with no recourse but to remain in the same department, and thus it invites further problems. In Ontario, by contrast, the parties can specify the issues which they wish to arbitrate, subject to the overriding right of individual employees, under section 18(2), to voice complaints regarding classification, appraisals and discipline. Legality issues have nevertheless arisen because of the parties' efforts to restrict those individual rights. For example, the Ontario Public Service Employees' Union and the employer tried to use a provision in the collective agreement to bar probationary employees from formally protesting their release or discharge. In *Leslie* and *Brickson*,[64] the Grievance Settlement Board held that such a clause was illegal: the statutory rights exist in addition to those in the collective agreement and cannot be restricted by it. In *Keeling*, mandatory time-limits under the collective agreement were held to be illegal in that they were a purported bar to the individual's right to pursue his grievance. This case was upheld on judicial review by the Divisional Court.[65]

There is some doubt as to whether such constraints on a probationary employee's access to arbitration would be illegal under federal legislation. This doubt arises as à result of the Supreme Court of Canada's decision in *Leeming*,[66] a case decided under the New Brunswick Public Service Labour Relations Act, which is modelled on the federal legislation and contains adjudication provisions similar to those in the federal sections.[67] In that case, Leeming, a probationary employee, sought adjudication after her release, despite a collective agreement provision stating that a probationary employee may be discharged without recourse to the grievance procedure. In holding that the adjudicator had no jurisdiction, Martland J. appears to have focused on section 65 of the Act, which provides that a collective agreement is binding on the employer, the employees and the trade union. From this, he concluded that the grievance-procedure and adjudication provisions in sections 91 and 92 of the Act do not confer on the employee substantive rights additional to those in the collective agreement.[68] This decision is difficult to reconcile with the majority decision in *Jacmain*, a case not even mentioned in *Leeming*.[69] The essence of the decision of the five judges in *Jacmain* is that the Public Service Staff Relations Act does confer substantive rights on employees. Indeed, the definition of a grievance in both the federal and New Brunswick Acts, which allow a person in a managerial or confidential capacity formally to protest discipline, indicates that the Act confers substantive rights. Nevertheless, Martland J. ignored these facts.

At its narrowest, *Leeming* may mean that the legislation confers substantive rights which are subject to derogation in a collective agreement. In the absence of restrictive language, an employee can rely on the Act to confer substantive rights. This seems a bizarre result, however, in light of the philosophy of individual access to arbitration, found in the Acts, as well as the normal pre-eminence of statute over contract (unless there are words in the statute to the contrary).[70] *Leeming* does not change the holdings of *Keeling* or *Leslie*[71] in Ontario, for the provisions for arbitration contained in the Crown Employees Collective Bargaining Act clearly take precedence over the collective agreement, stating that the individual's rights are "in addition to any other rights of grievance under a collective agreement". Therefore, there is no doubt that those provisions confer substantive rights.

Legality issues are not confined to jurisdictional restraints, but arise, as well, from restrictions on the scope of bargaining. Inevitably, unions argue that an issue is bargainable as a 'term and condition of employment', and the employer argues that such a collective agreement provision is illegal. For example, there have been several cases in Ontario in which the employer has unsuccessfully tried to use transfers to avoid the job-posting provisions in a collective agreement, arguing that the statutory management-rights clause in section 18(1) of the Act gives the exclusive right to 'manage', including the rights to organization and assignment.[72] This section is in tension with section 7, a wordy and convoluted section on bargaining authority which permits bargaining on the terms and conditions of employment, including promotions, demotions, transfers and lay-offs. The GSB has given greater weight to the section on bargaining authority, holding that the employer must comply with the articles governing job postings.

Legality issues cannot be avoided in the public sector because of the numerous statutes that are operative, and this fact has an impact on arbitration. Because the legal issues involved are often complex, it can be difficult for representatives who are not lawyers to present such cases.[73] Legality issues are also vulnerable to judicial review, for courts may be more willing to overrule those decisions that are based on statute than those based on collective agreements. Whereas contract interpretation has been subject to a standard of reasonableness on review,[74] statutory interpretation has sometimes been subjected to a standard of 'correctness'.[75] This is not always true, however, for some courts have held that a specialized tribunal's interpretation of its own collective bargaining legislation should be overturned by the courts only if the decision is 'patently unreasonable',[76] a standard which is deferential to arbitral judgment. The standard seems to vary with the court and the jurisdiction; the Ontario courts are generally deferential, and the Federal Court of Appeal is often willing to intervene.[77]

The Role of the Arbitrator in the Public Sector

While I have emphasized some of the ways in which arbitration in the public sector differs from that in the private sector, the contrasts should not be drawn too starkly, for there are many ways in which the practice in the two sectors is similar. Indeed, reference to private sector cases in public sector awards is common, particularly in discipline and promotion cases.[78] This is inevitable, for most of the public sector adjudicators also act in the private sector, and many of the issues to be resolved, such as leaves of absence, call-in pay, overtime and discipline, are similar.

It is in discipline cases that difficult — indeed, one might say 'delicate' — problems can arise for the public sector arbitrator. In many discipline cases, the illusive concept of the public interest is invoked to justify disciplinary action which the union argues is too harsh, as, for example, when a conflict-of-interest situation has caused no loss to the employer, or when a momentary error in judgment has resulted in the use of excessive force against a patient or an inmate. Frequently, the public interest is synonymous with the employer's interest, as Scott has said in his description of rights arbitration for police.[79] The arbitrator must then sit in judgment to decide whether the public interest is indeed best protected by the employer's actions: for example, by upholding discharge of an employee who threatens policies of government neutrality or patient/inmate protection.[80] There is a competing concern of fairness to the individual employee, which requires assessments of his record, the motivation for the conduct, his degree of seniority, and the harshness of the penalty. Overall, arbitrators are very much aware of the public interest and recognize the particular gravity of some types of conduct exhibited by those in positions of public trust. Nevertheless, they have adopted the jurisprudence of progressive discipline from the private sector, even where that has been controversial.[81]

While Scott believes that the interests of the employer and the public overlap, there are cases where the public interest does not clearly coincide with that of the employer. In a case involving the abuse of a patient or inmate, concern for the public interest may encourage the arbitrator to uphold the discharge. Yet, in some cases, the employer may have condoned the conduct or incurred some responsibility for the incident by failing to communicate clearly what is expected of employees. The arbitrator must then weigh the public interest, which would encourage him to uphold the discharge, against industrial relations considerations of due process and fairness to the employee, which would require that the employee be reinstated because of the element of employer 'fault'. In free speech and 'whistle-blowing' cases, one can also see a tension between the interests of the public and those of the employer, and again, the arbitrator is faced with a difficult balancing act. An employee may speak out on perceived abuses related to his job, as occurred in a case in British Columbia involving correctional officers,[82] or he may wish to discuss general government policy issues, despite employer objections, as in *Fraser*.[83] Still another variation is seen in the *MacAlpine* case, where an employee, concerned about improper pressure from superiors regarding the conducting of forest surveys with respect to a licence application, released government documents to an Opposition member of the legislature.[84] In each of these cases, the employee argued that the public interest in the content of his information, which was intended to stop government abuse or to facilitate debate on important political issues, justified his speech or his actions or both.

In several federal cases prior to *Fraser*, the tendency had been to protect the employer's interest by shielding it from the public disrepute caused by employee criticism.[85] In the three recent cases discussed, the arbitrators have made a greater effort to balance the interests of the employers and the public, recognizing that an employee has a duty of fidelity to his employer, but that the public also has an interest in the disclosure of truthful statements if the employee has already tried, and failed, to raise his complaints internally. As well, the *Fraser* case acknowledged the employee's right to speak on political issues as long as his political statements did not interfere with his work performance.

Because of the component of public interest present in many of the public sector cases similar to *Fraser* or *MacAlpine*, arbitrators in the public sector face certain pressures which are found only infrequently in the private sector. Misconduct of a public servant may well attract the attention of the public and the media, especially if it takes a controversial form, such as patient abuse or dishonesty. An arbitration award which finds insufficient evidence to prove culpability, or which determines that the imposed penalty was too severe, can lead to critical editorial comments, and even to questions in the legislature or in Parliament. One of the most notorious cases of this kind was the *Johnston* award by the Ontario Grievance Settlement Board.[86] In that case, Johnston was discharged from his job as a residential counsellor for the Ministry of Community and Social Services after he kicked a retarded patient, who was kneeling in the hall in a punishment position, and knocked her over, bruising her eye in the process. A unanimous board found that Johnston had engaged in unthinking horseplay, without any intention to hurt the patient, and because of his record, his remorse, and the limited availability of alternative employment (all commonplace industrial relations considerations), he was reinstated without back pay, the effect of the award being a lengthy suspension of approximately six months. The case became a topic of controversy in the legislature and in the newspapers, and the Ministry refused to reinstate Johnston. Judicial review upheld the award, while proceedings against Ministry officials resulted in the deputy minister being held in contempt. Meanwhile, legislative activity took the form of a proposed bill to nullify the GSB's decision and to order a new hearing. After negotiations, the government withdrew that bill and introduced in its stead another bill which placed a new restriction on the remedial authority of the board. While section 19(3) allows the GSB to substitute a "just and reasonable" penalty for one that is considered excessive, the amendment, now section 19(4), restricts that authority where an employee in a "facility" (such as a mental health centre or correctional institution) has applied excessive force or has sexually molested a resident. In such a case, the GSB may not reinstate the employee to a position involving "direct responsibility for or that provides an opportunity for contact with residents", but may reinstate him to a "substantially equivalent position".[87]

Johnston is only one example of the cases involving misconduct that have had a high public profile, and others could be cited. For example, after complaints were heard from Ontario's Liquor Control Board that its efficiency was hampered by an inability to discharge employees, because of the jurisprudence of the Grievance Settlement Board, the Public Accounts Committee in Ontario summoned the chairman of the GSB to discuss its operations and performance.[88] Is there an impact on arbitration because of this potentially high public profile? I suspect that few arbitrators relish an emotional public debate over their awards, and that reluctance to accept public sector appointments can develop over time. There is, however, no evidence that the publicity affects the outcome of the cases. In Ontario, since the *Johnston* case, there has still been reinstatement of employees in controversial cases, such as *MacAlpine*. The major remnant of the *Johnston* case is the section 19(4) amendment, which has introduced a virtually unworkable provision, the strictures of which conflict with the remedial power in section 19(3). The *Travers* case, where a 'substantially equivalent position' without resident contact had to be determined for a correctional officer reinstated in the Ministry of Correctional Services,[89] is the only one in which the GSB has had to apply the section. The section can only be applied on a case-by-case basis, with attention paid to factors such as location, skill, pay and responsibility.[90] Issues involving the displacement of incumbent employees (or 'bumping') and the protection of existing pay levels (or 'red-circling') are, as yet, unresolved. Such problems raise important and difficult problems concerning, on the one hand, justice to the individual complainant and, on the other, the dissatisfaction and reaction of other employees who might be affected by the practices of bumping and red-circling.

A final issue with which public sector arbitrators concern themselves in the process of balancing interests is the role of precedent. There is a persuasive argument for a well-developed doctrine of precedent in the public sector, both because of the system-wide impact of decisions and because of the parties' need for guidance in administering their relationships.[91] Therefore, the Ontario Grievance Settlement Board has adopted a practice of following the previous decision, unless it is found to be "manifestly erroneous";[92] dissatisfied parties are left to alter the result at the bargaining table. Again, this practice presents an interesting problem when the GSB has interpreted its own statute in a manner that is unacceptable to one of the parties, for no bargaining option exists. Theoretically, an unhappy employer may effect legislative change, but that is unlikely unless the issue is a pressing and important one, as it was in the *Johnston* case. Judicial review is also an option, but again, it is without much efficacy if the court adopts the 'patently unreasonable' test because the GSB has construed its constituent statute. This leaves reconsideration by the board as the most likely avenue for change. In a case in which the GSB was asked, for the second time, to overrule an earlier interpretation of section 18(2) of the Crown Employees' Collective Bargaining Act, the board suggested that the standard of review might appropriately be reduced in reconsidering previous decisions when other remedial forums are inadequate.[93]

Conclusions

Public sector arbitration bears a great deal of similarity to that in the private sector, particularly in jurisdictions where a private sector system of *ad hoc* arbitration is used. Even where permanent panels are utilized, the members are active in the private sector and are influenced by labour relations practice there. Yet public sector arbitration has certain distinct characteristics because of the prevalence of statutory provisions and the omnipresence of 'public interest'. Many disciplinary cases cannot be decided without some attention to the public interest, a consideration which is often, but not always, synonymous with the employer's view and which involves the arbitrator in important public policy issues. As a result, media and public attention cannot be avoided.

Jurisdictional disputes and legality issues will be a frequent problem for public sector arbitrators and the parties involved as long as legislation imposes constraints on matters which are both bargainable and arbitrable. Arbitrators and parties in the federal sector face the greatest number of problems, but the issue of legality can arise wherever the scope of bargaining and adjudication is restricted.[94]

Initially, the most efficacious way to avoid jurisdictional complexities would be to broaden, at the federal level, the right of access to arbitration. This was Jacob Finkelman's suggestion in his proposals for changes to the Public Service Staff Relations Act in 1974. He suggested that all releases be adjudicable under that Act, except action taken because of political partisanship (which would be dealt with under section 32 of the Public Service Employment Act), fraud or irregularity in appointment, and national security issues.[95] Similarly, the D'Avignon report in 1979 recommended the adjudication of all terminations or demotions for cause.[96] No action was taken on these recommendations, however, and given the current recession and government's efforts to restrict bargaining activity by public servants, future reform is unlikely. Thus arbitrators are left with the difficult task of deciding whether disciplinary action, rather than bona fide release or lay-off, has occurred. It is difficult to defend the federal restrictions in light of the practice in other jurisdictions. Classification and promotion are arbitrable in Ontario, and there is no evidence of harm either to the merit system, in general, or to the classification system, in particular.

The constraints on adjudication caused by jurisdiction and 'bargainability' are likely to cause aggravations in the employer-union relationship. This was true in the relationship between the Post Office and the Canadian Union of Postal Workers, and it resulted in the union pressing for a switch to the Canada Labour Code so that the scope of bargaining and arbitration could be increased in order to cover the effects of technological change. Other unions no doubt feel the same frustrations, but lack the leverage to generate change. The industrial-relations climate can only suffer if the employer refuses to bargain on important matters, using its legislative power, instead, to remove these issues from the bargaining table and to protect management rights. However, reform is even less likely on the issue of 'bargainability' than it is on access, and, indeed, a strong faction would argue that bargaining rights must be restricted in order to protect legislative supremacy and to control union distortion of the political process.[97]

Finally, the problem of the backlog in the arbitration system in Ontario and at the federal level is ongoing. The grievance-mediation system in Ontario is a positive step toward case-load management.[98] A further reform which warrants consideration is the imposition of the costs of arbitration on the parties, in place of the tradition of government funding. Indeed, in Ontario, the Public Service Employees' Union has offered to pay its share in return for equal control of appointment (rather than the consultation mechanism now in place).[99] If costs were imposed on the parties, there would be some incentive to avoid last-minute adjournments, to settle some cases, and perhaps even to devise some form of expedited arbitration.

Overall, public sector arbitration has many of the characteristics of private sector arbitration. Reforms to make the system more effective — in terms of case-load management and the effective resolution of disputes among employers, unions and employees — must move the system even further towards the private sector model, and must abandon the restrictions on jurisdiction and 'bargainability'.

Notes

1. In general, I shall refer to methods of settling rights disputes as 'arbitration', despite the practice in several jurisdictions (such as the federal jurisdiction and in New Brunswick, Alberta and Nova Scotia) to refer to the process as 'adjudication'.
2. W. Little, *Collective Bargaining in the Ontario Government Service*, pp. 4–5 and 35; J.E. Hodgetts and O.P. Dwivedi, *Provincial Governments as Employers: A Survey of Public Personnel Administration in Canada's Provinces*, pp. 151–52; H.W. Arthurs, *Collective Bargaining by Public Employees in Canada: Five Models*, pp. 125a–28.
3. J.E. Hodgetts, W. McCloskey, R. Whitaker and V.S. Wilson, *The Biography of an Institution: The Civil Service Commission of Canada, 1908–1967*, pp. 179 and 333–34.
4. *Ibid*,. p. 179.
5. Little, *Collective Bargaining in the Ontario Government Service*; Hodgetts and Dwivedi, *Provincial Governments as Employers*; Arthurs, *Collective Bargaining by Public Employees in Canada*.
6. Hodgetts *et al.*, *The Biography of an Institution*, p. 332.
7. Civil Service Collective Bargaining Act, S.N.S. 1978, c.3, ss. 35, 36.
8. The Public Service Labour Relations Act, R.S.B.C. 1979, c.346, s.26, states that, unless otherwise provided, the Labour Code applies. Previous provisions in the Act dealing with arbitration were repealed by S.B.C. 1980, c.43. For Alberta, see the Public Service Employee Relations Act, R.S.A. 1980, c.P-33, ss.1(e), 61–69; Master Agreement between the Government of the Province of Alberta and the Alberta Union of Provincial Employees (30 June 1980), Articles 29.14, 29.15.
9. The use of a panel is not system-wide in the public sector, even in these jurisdictions. In Ontario, for example, teachers use an *ad hoc* model (School Boards and Teachers' Collective Negotiations Act, R.S.O. 1980, c.464, s.52), although a board of reference is available in discharges or terminations (Education Act, R.S.O. 1980, c.129, ss.238–248). Police use *ad hoc* arbitration for collective agreement disputes (Police Act, R.S.O. 1980, c.381, s.33), but discharge and discipline are subject to an administrative procedure set out in "Regulation 680"

(now R.R.O. 1980, Reg. 791). See I. Scott, "Rights Arbitration in Canadian Police Labour Relations", p. 157.

10. R.S.C. 1970, c.P-35, ss.91–98 (hereinafter the 'PSSRA').

11. D.P. Olsen, "Adjudications Under the Public Service Staff Relations Act (Canada) — A Comparative Analysis of the Interpretation and Application of Collective Agreements in the Federal Public Service and the Private Sector", pp. 20–25; E.B. Jolliffe, "Adjudication in the Canadian Public Service"; J. Finkelman, *Employer-Employee Relations in the Public Service of Canada: Proposals for Legislative Change*, Part I, Chapter 5. Information with regard to the Public Service Staff Relations Board (hereafter the 'PSSRB') has been obtained, in part, through discussions with present and past members.

12. Olsen, "Adjudications Under the Public Service Staff Relations Act", p 22, note 29.

13. R.S.O. 1980, c.108, s.20 (hereinafter the 'CECBA').

14. For New Brunswick, see the Public Service Labour Relations Act, R.S.N.B. 1973, c.P-25, s.93.

15. In 1980-81, the PSSRB received 1176 new references, for a total case load of 4604. The number was reduced by 2723 over the course of the year, because of special settlement mechanisms, and the number of grievances will be further reduced by the change in status of Canada Post to a Crown corporation. The figures are found in the PSSRB, *Fourteenth Annual Report 1980-81*, p. 85. In Ontario, the GSB received 627 new grievances in 1981-82, which, when added to the 781 already on hand, made a total of 1408. Of these, 806 were completed and 155 withdrawn, leaving 447 pending (Ontario Civil Service Commission, *Annual Report 1981-82*, p. 38).

16. Olsen, "Adjudications Under the Public Service Staff Relations Act", p. 26.

17. *Ibid.*, pp. 26, 28.

18. There are five units in Ontario; federally, there are 100 units after the removal of the Post Office (PSSRB, *Fourteenth Annual Report 1980-81*, p. 1).

19. The use of precedent is discussed in the text, in the section entitled "The Role of the Arbitrator in the Public Sector".

20. For example, the rights of those employed in the 'unclassified service' in Ontario depend on the interaction of the Public Service Act, R.S.O. 1980, c.418, ss.1, 8, the regulations thereunder (R.R.O. 1980, Reg. 881, s.6), the definition sections of the CECBA, s.1, and the collective agreement. See, for example, *Re Bickerstaff and Turner and Ministry of Government Services*, 90/79 and 74/79 (Swinton).

21. See the figures in note 15, above.

22. The PSSRB, *Fourteenth Annual Report 1980-81*, p. 4. Some 35 000 individual grievances were disposed of.

23. In 1981-82, 806 cases of the 1408 on the list were withdrawn, while, during the preceding year, 360 of 1229 were withdrawn (Ontario Civil Service Commission, *Annual Report 1980-81*, p. 38 and *Annual Report 1981-82*, p. 38.

24. PSSRA, s.97; Olsen, "Adjudications Under the Public Service Staff Relations Act", p. 23.

25. *Re Garrard and the Crown in Right of Ontario (Ministry of the Solicitor General)*, 521/81 (Jolliffe).

26. This is not true in all public sector legislation; see, for example, Nova Scotia's Civil Service Collective Bargaining Act, S.N.S. 1978, c.3, s.34(4), (5).

27. See, for example, Ontario Labour Relations Act, R.S.O. 1980, c.228, s.68.

28. For example, Air Canada and International Association of Machinists and Aerospace Workers.

29. PSSRA, s.90(1). The same model is found in New Brunswick's Public Service Labour Relations Act, R.S.N.B. 1973, c.P-25, s.91(1).

30. PSSRA, ss.90(2), 112.

31. PSSRA, s.90(2).

32. PSSRA, ss.91(1)(a), 92(2). See, for example, *Dooling and Treasury Board*, 166-2-308 (1971 — Meyer); *Tulk and Treasury Board*, 166-2-404 (1971 — Abbott).

33. PSSRA, s.91(1)(b). See W.R. Moore, "Justice and the Grievance Procedure in the Federal Public Service", p. 848.

34. PSSRA, s.2 (definition of 'grievance').

35. CECBA, s.19, and *Re Barnfield and Minister of Transportation and Communications*, 67/76 (Swan).

36. CECBA, s.18(2).

37. A.W. Blumrosen, "Legal Protection for Critical Job Interests: Union-Management Authority Versus Employee Autonomy".

38. The GSB has held that an employee must first attempt to use the grievance procedure before referring the matter to arbitration (*Re Williamson and the Crown in Right of Ontario (Liquor Control Board of Ontario)*, 107/80 (Carter)). However, he may proceed to arbitration in the absence of a final determination that is acceptable to him (*Re Keeling and Ministry of Transportation and Communications*, 45/78 (Prichard)). Some doubt may be thrown on this jurisprudence by *Re Cover and Crown in Right of Ontario (Liquor Control Board of Ontario)*, 256/80 (Kennedy): an employee cannot voice a complaint because union and employer settled a suspension grievance, and the union withdrew the grievance.

39. For example, *Re Burns and Liquor Control Board of Ontario*, 120/78 (Swan).

40. The Ontario Public Service Employees Union (OPSEU) Constitution (1981), in section 7.1, gives members a right to representation by the union, which also has an effect on the board's case load.

41. *Re Rivard and Treasury Board (Post Office Department)* (1981), 30 L.A.C. (2d) 225 (Cantin).

42. *Re Andrews and Brent* (1980), 113 D.L.R. (3d) 67 (F.C.A.).

43. Public Service Act, R.S.O. 1980, c.418, s.22(5) discussed, below, note 49.

44. Public Service Employment Act, R.S.C. 1970, c.P-32.

45. *Ibid.*, s.21 (appointments); s.31 (release for incompetence).

46. See Finkelman, *Employer-Employee Relations in the Public Service of Canada*, p.190.

47. Public Service Employment Act, 1970, c.P-32.

48. *Jacmain* v. *A.G. Can.* (1977), 81 D.L.R. (3d) (S.C.C.). The Court was divided, six to three, on whether or not to dismiss the appeal, but five justices held that an adjudicator could consider whether a rejection was disciplinary (Pigeon and Beetz JJ., concurring in the majority result, and Laskin C.J. and Dickson and Spence JJ., dissenting). DeGrandpré J., writing for himself and three others in the majority, left the issue open (at p.18).

49. *Re Leslie and the Crown in Right of Ontario (Ministry of Community and Social Services)* (1978), 22 L.A.C. (2d) 126 (Adams), at 133–34.

50. *Re Steen*, 166-10-4186 (1978 — Norman) at 30.

51. *Re Haladay and Ministry of Industry and Tourism*, 94/78 (Swan); *Jacmain* (1977).

52. See Finkelman, *Employer-Employee Relations in the Public Service of Canada*, p.192, for a list of these gray areas.

53. Followed in *Haladay; Bryson*, 166-2-6099 (1980 — Brent).

54. *Re Keane and the Crown in Right of Ontario (Ministry of Consumer and Commercial Relations)*, 596/81 (Roberts).

55. *Ibid.*, at 20–21; *Porcupine Area Ambulance Service and C.U.P.E., Local 1484* (1974), 7 L.A.C. (2d) 182 (Beatty).

56. There have been a number of cases discussing the applicability of *Toronto Hydro-Electric System and C.U.P.E., Local 1* (1979), 26 L.A.C. (2d) 434 (upheld on judicial review (1980), 30 O.R. (2d) 64 (C.A.)), which held that a clause barring a probationary employee from voicing a complaint about his dismissal was illegal under the Labour Relations Act, R.S.O. 1980, c.228, s.44. Other cases have held that the collective agreement could properly bar a probationary employee's grievance: for example, *Re Consumers' Gas Co. and Independent Gas Workers' Union, Local 513* (1982), 4 L.A.C. (3d) 25 (Kennedy).

57. *Public Service Employment Regulations*, C.R.C. 1978, c.1337, as amended, Public Service Act, R.S.O., 1980, c.418, s.22(5).

58. The Act does provide some protection to an employee appointed from within the public service and then released, for he must be placed on an eligible list by the Public Service Commission (Public Service Employment Act, s.28(5)).

59. *Re Dhillon and Treasury Board* (1980), 80 CLLC, para. 18,007 (Norman) at p.17,020.

60. Olsen, "Adjudications under the Public Service Staff Relations Act", pp. 135–37.

61. K.P. Swan, "Interest Arbitration of Non-Economic Issues in Police Bargaining", p. 75; *Re Alberta Union of Provincial Employees as illegal under the Labour Relations Act, R.S.O. 1980, c.228, and Board of Governors of Olds College* (1982), 136 D.L.R. (3d) 1 (S.C.C.).

62. *Re Rivard and Treasury Board* (1981), discussed above.

63. *Re Baril and A.G. Can.* (1979), 106 D.L.R. (3d) 79 (F.C.A.).

64. *Re Erickson and Ministry of Correctional Services*, 12/75 (Beatty); *Leslie* (1978), discussed above.

65. *Keeling*, upheld *sub. nom. Re A.G. Ont. and Keeling* (1980), 30 O.R. (2d) 662 (Div'l Ct.).

66. *Re the Queen in Right of New Brunswick and Leeming* (1981), 118 D.L.R. (3d) 202 (S.C.C.).

67. R.S.N.B. 1973, c.P-25, s.92(1).

68. *New Brunswick and Leeming* (1981), p. 206.

69. Section 58 of the federal Act is equivalent to s.65 of the New Brunswick Act, the section which appears to have led to the result.

70. For example, s.30(3) of the Public Service Act, R.S.O. 1980, c.418, states that a collective agreement prevails over the regulations under that Act.

71. *Keeling* and *Leslie*, discussed above.

72. *Re Maguire and Ministry of the Attorney General*, 207/78 (Swan); *Re Broadley and the Crown in Right of Ontario (Ministry of Transportation and Communications)*, 41/78 (Saltman).

73. See Olsen, "Adjudications Under the Public Service Staff Relations Act", p. 24, referring to a higher incidence of lawyers than lay representatives in the public sector. In Ontario, it is common to use staff representatives, although the use of lawyers has increased over the years.

74. For example, *Douglas Aircraft Co. of Canada Ltd.* v. *McConnell* (1979), 99 D.L.R. (3d) 385 (S.C.C.) at p. 406.

75. *McLeod* v. *Egan* (1974), 46 D.L.R. (3d) 150 (S.C.C.).

76. *See Canadian Union of Public Employees, Local 963* v. *New Brunswick Liquor Corp.* (1979), 97 D.L.R. (3d) 417 (S.C.C.) at 424, 429; *Heustis* v. *New Brunswick Electric Power Commission* (1979), 98 D.L.R. (3d) 622 (S.C.C.) at 631; *Keeling*, discussed above.

77. K.P. Swan, "The Supreme Court of Canada, Judicial Review and Labour Arbitration", p. 1.

78. For example, *Re Forrester and Treasury Board (Post Office Department)* (1981), 2 L.A.C. (3d) 182 (O'Shea): regarding discharge for forgery of medical certificates; *Re Hunter and Treasury Board (Department of National Revenue) (1979)*, 23 L.A.C. (2d) 264 (Frankel): regarding leave of absence.

79. Scott, "Rights Arbitration in Canadian Police Labour Relations", p. 159.

80. For example, *Re Van der Linden and the Crown in Right of Ontario (Ministry of Industry and Tourism)* (1981), 28 L.A.C. (2d) 352 (Swinton); *Re Hallborg and the Crown in Right of Ontario (Ministry of Revenue)* (1979), 22 L.A.C. (2d) 289 (Weatherhill); *Re Government of Province of British Columbia and British Columbia Government Employees' Union* (1980), 26 L.A.C. (2d) 71 (Hope).

81. For example, *Re Government of Alberta and the Alberta Union of Public Employees; Doctor Grievance* (unreported, Jolliffe, September 17, 1982).

82. *Re Ministry of Attorney-General, Corrections Branch and British Columbia Government Employees' Union* (1981), 3 L.A.C. (3d) 140 (J. Weiler).

83. *Re Fraser and Treasvry Board (Department of National Revenue)* (1982), 5 L.A.C. (3d) 193 (Kates) — upheld on judicial review by the Federal Court of Appeal.

84. *Re MacAlpine and Ministry of Natural Resources*, 241/82 (Jolliffe).

85. *Stewart and Treasury Board*, 166-2-2000 (1975 — Jolliffe) — upheld (1977) 1 F.C. 133 (C.A.); *Re Chedore and Treasury Board* (1980), 29 L.A.C. (2d) 42 (MacLean).

86. *Re Johnston and Ministry of Community and Social Services*, 7/78 (Adams).

87. S.O. 1978, c.135, s.9.

88. This meeting took place on 3 March 1982.

89. *Re Travers and the Crown in Right of Ontario (Ministry of Correctional Services)*, 79/79 (Swinton).

90. *Ibid.*, Supplementary Award, 18 June 1981.

91. Olsen, "Adjudications Under the Public Service Staff Relations Act", p. 28; Jolliffe, "Adjudication in the Canadian Public Service", p. 358.

92. *Re Bateman and Marshall and Ministry of Transportation and Communications*, 2/77 (Prichard).

93. *Re Clements and the Crown in Right of Ontario (Liquor Control Board of Ontario)* (1981), 28 L.A.C. (2d) 289 (Prichard) at 290–91.

94. Bargaining restrictions are common in the public sector. Ontario and the federal jurisdiction have been mentioned. See also, British Columbia Public Service Labour Relations Act, R.S.B.C. 1979, c. 346, ss. 11,13; Quebec's Civil Service Act, R.S.Q. 1977, c.15, s.116.

95. Finkelman, *Employer-Employee Relations in the Public Service of Canada*, p. 194.

96. Canada, Public Service Commission, Special Committee on the Review of Personnel Management and the Merit Principle, *Report*, p. 141.

97. See, for example, Finkelman, *Employer-Employee Relations in the Public Service of Canada*, p. 60. I do not propose to enter at this time into the omnipresent debate in public sector collective bargaining.

98. S.B. Goldberg, "The Mediation of Grievances Under a Collective Bargaining Contract: An Alternative to Arbitration".

99. CECBA, s.20(2).

Bibliography

Arthurs, H.W. *Collective Bargaining by Public Employees in Canada: Five Models.* Ann Arbor: University of Michigan, Wayne State University Press, Institute of Labor and Industrial Relations, 1971.

Blumrosen, Alfred W. "Legal Protection for Critical Job Interests: Union-Management Authority Versus Employee Autonomy". *Rutgers Law Review* 13 (Summer 1959): 631–65.

Canada. Public Service Commission. Special Committee on the Review of Personnel Management and the Merit Principle. *Report.* Ottawa: Minister of Supply and Services Canada, 1979. (D'Avignon Report.)

Finkelman, Jacob. *Employer-Employee Relations in the Public Service of Canada: Proposals for Legislative Change.* Ottawa: Information Canada, 1974.

Goldberg, Stephen B. "The Mediation of Grievances Under a Collective Bargaining Contract: An Alternative to Arbitration". *Northwestern Law Review* 77 (October 1982): 270–315.

Hodgetts, J.E. and Dwivedi, O.P. *Provincial Governments as Employers: A Survey of Public Personnel Administration in Canada's Provinces.* Montreal: McGill-Queen's University Press, 1974.

Hodgetts, J.E.; McCloskey, William; Whitaker, Reginald and Wilson, V. Seymour. *The Biography of an Institution: The Civil Service Commission of Canada, 1908–1967.* Montreal: McGill-Queen's University Press, 1972.

Jolliffe, Edward B. "Adjudication in the Canadian Public Service". *McGill Law Journal* 20 (September 1974): 351–63.

Little, W. *Collective Bargaining in the Ontario Government Service.* Toronto: Queen's Printer, 1969.

Moore, William R. "Justice and the Grievance Procedure in the Federal Public Service". *Relations industrielles* 36 (No. 4 1981): 848–64.

Olsen, David P. "Adjudications Under the Public Service Staff Relations Act (Canada) — A Comparative Analysis of the Interpretation and Application of Collective Agreements in the Federal Public Service and the Private Sector". LL.M. thesis, McGill University, 1979.

Ontario Civil Service Commission. *Annual Report 1980–1981.* Toronto: Queen's Park, 1981.

Ontario Civil Service Commission. *Annual Report 1981–1982.* Toronto: Queen's Park, 1982.

Public Service Staff Relations Board. *Fourteenth Annual Report 1980-81.* Ottawa: Minister of Supply and Services Canada, 1981.

Scott, Ian. "Rights Arbitration in Canadian Police Labour Relations" in *Conflict and Cooperation in Police Labour Relations*, edited by Bryan M. Downie and Richard L. Jackson, pp. 157–80. Ottawa: Minister of Supply and Services Canada, 1980.

Swan, Kenneth P. "Interest Arbitration of Non-Economic Issues in Police Bargaining" in *Conflict and Cooperation in Police Labour Relations*, edited by Bryan M. Downie and Richard L. Jackson, pp. 75–94. Ottawa: Minister of Supply and Services Canada, 1980.

Swan, Kenneth P. "The Supreme Court of Canada, Judicial Review and Labour Arbitration" in *Studies in Labour Law*, edited by Kenneth P. Swan and Katherine E. Swinton, pp. 1–34. Toronto: Butterworth, 1983.

11: Collective Bargaining under an Essential Services Disputes Commission

BRYAN M. DOWNIE

Bryan M. Downie is Professor, School of Business, Queen's University, and Chairman of the Ontario Education Relations Commission.

Contents

Introduction 377
Teacher/School-Board Bargaining in Ontario 379
  The Record 381
  Length of Negotiations 382
  Number of Third-Party Appointments 384
  Stages of the Process Utilized 386
  Supervised Last-Offer and Strike Votes 389
  Strikes 389
Commission Policy 392
Acknowledgements 398
Notes 398
Bibliography 401

Collective Bargaining under an Essential Services Disputes Commission

Introduction

Dispute resolution in public sector collective bargaining often commands the attention of the nation.[1] Strikes by postal workers, teachers, police and government clerks, to name but a few, have prompted many people to propose a roll-back of the right to strike in the public sector. Indeed, one could make an argument that public sector strikes prompted the introduction of wage controls and restraints across Canada in 1982. At the same time, union leaders and others have opposed the utilization of compulsory interest arbitration as a substitute for economic sanctions. This is, perhaps, the major dilemma that politicians must confront in the area of public sector labour relations. There are few, if any, viable options to the granting of the right to strike. Moreover, solutions to the dilemma which entail a pre-strike determination of 'essential' jobs, the holders of which may not strike, have not been encouraging.[2]

This dilemma prompted the Woods Task Force on Labour Relations to recommend, thirteen years ago, the creation of a public interest disputes commission as a middle-ground solution. The three-person commission would be independent of all government departments, and commissioners would serve on a part-time basis. The commission would not only design special procedures for those sectors in the federal jurisdiction, where disputes might jeopardize the public interest, but would also make recommendations when actual disputes arose in such sectors. With respect to the latter function, the task force stated:

> For a dispute where normal or special procedures break down or are exhausted without effecting a settlement, the Public Interest Disputes Commission [should] be available at the request of the government to advise on the dangers to the public of a particular work stoppage In any dispute, whether or not it is covered by special procedure, the government should also have power, at a point which it considers timely, to request a report recommending a further *ad hoc* procedure for terminating the dispute in the event of an actual work stoppage . . . . The report would be a public document, and could recommend alternative procedures. The government would then act in the political arena as it saw fit.[3]

More recently, Paul Weiler, professor of labour law and former chairman of the British Columbia Labour Relations Board, recommended the formation of an Essential Services Disputes Commission, which would be comprised of a "blue ribbon panel" of industrial relations experts. The function of such a commission would be to *monitor* public sector disputes both *before and after* they erupted into strike action.[4] Weiler, in his book *Reconcilable Differences*,[5] highlights the basic rationale behind the idea as follows:

> . . .there are few political crises which can match a strike in public essential services — by postal workers, air traffic controllers, school teachers or hospital employees . . . . Doing nothing may be the best tactic in industrial relations terms, but always appears worst in political terms, especially to people who, after all, are elected politicians. An Essential Services Disputes Commission can be a useful buffer between the government and the dispute, one which can serve as a lightning rod to draw off much of the popular flak, and which provides an institutional setting in which professional labour relations judgments can be made.

Suggestions for a disputes commission also include establishing special procedures for settling disputes. The task force, for example, suggested the use of procedures that might involve conciliation, mediation, non-binding arbitration, voluntary binding arbitration, special inquiries (including the functions of fact-finding and the making of recommendations), the postponement of work stoppages, and special bargaining or consultative procedures.

The use of a disputes commission is not without problems. Paul Weiler has noted that there is no perfect solution in essential service disputes, but only solutions of varying degrees of imperfection. We are, after all, not talking about unbridled collective bargaining and the unfettered right to strike or lock out. The industrial relations literature abounds with descriptions of the problems which result from the imposition of elaborate dispute-settlement procedures. The feeling has been — and experience in various jurisdictions seems to confirm it — that after a piece of legislation has been introduced, the parties will take such procedures, build them into their bargaining strategies and tactics, and over-utilize them as time passes. That is, the legislation will tend to lose its efficacy: there is a 'half-life effect'. Hence, more and more procedures provided by the legislation will be utilized by the parties: there is a 'narcotic effect'; negotiations will be longer, and real bargaining will diminish over the years: there is a 'chilling effect'. Each of these effects threatens the efficacy of this approach.[6] Another problematic area of the idea of a disputes commission is the issue of whether or not sanctions can be imposed in a meaningful way while minimizing their effects on innocent third parties. Finally, there is the issue of whether or not the frequency of sanctions can be kept to an acceptable and tolerable level.

The design and purposes of the Ontario Education Relations Commission (ERC) closely mirror the concept contained in the task force's report and the one discussed by Professor Weiler. The purpose of this chapter is to present the experience with the Ontario legislation and that of the ERC, particularly as it pertains to the issues mentioned above. The Commission has now operated for a period of seven years, and experience provides at least a partial test of both the viability of specially tailored dispute-resolution procedures and the role of an independent commission to administer those procedures.

Teacher/School-Board Bargaining in Ontario

On 18 July 1975, the Ontario government enacted legislation granting teachers the right to bargain collectively and to strike. Prior to the passage of the legislation, known as Bill 100, the government had proposed legislation which included compulsory arbitration, rather than the right to strike. In response to the proposed statute, both teacher and trustee organizations, albeit for different reasons, lobbied the government to substitute the right to strike for compulsory arbitration in the legislation. The right to strike became a priority for the teachers because they viewed arbitration as an ineffective form of dispute resolution. The trustees viewed arbitration as both an imposition on, and an erosion of, local board autonomy, and therefore as conflicting with the principle of representative government. Moreover, those who drafted Bill 100 were convinced by events in the education sector and in other jurisdictions that strike-prohibiting legislation is not always effective, and that it could have the opposite effect to that which was intended. There was, and still is, a belief on the part of labour-relations experts that legislation permanently prohibiting strike and lock-out action may increase or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce some stability and order in bargaining between teachers and school boards, and against this background, the right to strike was included in the legislation. Offsetting that provision was the inclusion of an elaborate set of dispute-settlement procedures and the formation of an independent Education Relations Commission (ERC).

The need for legislation to deal with teacher/school-board negotiations was obvious in the early 1970s. At that time, teachers were demanding the right to bargain collectively such issues as working conditions, grievance procedures and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. At the same time, during the late 1960s and early 1970s, teachers' federations in the province utilized a variety of sanctions, including mass resignations, against some school boards. The net result, in the absence of legislation, was that bargaining took place in a vacuum, relationships between trustees and teachers deteriorated, and officials from the Ministry of Education were drawn as mediators into a large number of disputes.

The School Boards and Teachers Collective Negotiations Act, 1975, (or Bill 100) provided ground rules for collective bargaining. Although the most publicized feature of the Act was the right to strike, procedures for voluntary arbitration and voluntary final-offer selection, which, by mutual agreement, could be utilized at any time during the bargaining process, were provided. In addition, events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- A fact-finder has met with the parties and his or her report, which may or may not include recommendations on any matter, has been made public
- A fifteen-day cooling-off period takes place after the fact-finder's report is submitted to the parties
- The teachers have voted by secret ballot, supervised by the ERC, on the last offer of the school board

- The teachers have voted by secret ballot, supervised by the ERC, to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level, between the local teachers' federation(s) and the school board. Separate negotiations take place in the elementary and secondary panels of each board, and as a consequence, there are over 200 sets of negotiations. Most important, the open scope of bargaining allows any term or condition of employment to be negotiated, including class size and curriculum. Finally, the Act provided for a five-person Commission — the ERC — to provide many of the services of a labour-relations agency and to administer the Act. The Commission was given seven specific functions under section 60 of the Act:

- Monitoring all negotiations
- Collecting and providing data to all parties
- Assisting the parties in their negotiations
- Training third-party neutrals
- Adjudicating bad-faith bargaining charges
- Supervising last-offer, strike and ratification votes
- Advising the Lieutenant-Governor in Council concerning jeopardy to students' courses of study in the event of a strike, a lock-out, or both.

Of particular significance in this chapter is the additional provision that all collective agreements must expire on 31 August in the expiry year, and that immediately after that date, the ERC must appoint fact-finders 'forthwith'. It is the appointment of the fact-finder that 'starts the clock ticking' towards sanctions. Once the fact-finder has released his or her report to the parties, they have fifteen days to negotiate an agreement before the report is made public. A collective agreement will remain in effect beyond its expiry date until at least sixty days after the fact-finder's report is made public. At that point, the employer has the option of changing the terms and conditions of employment. As a consequence, pressure on the parties to come to a settlement builds very slowly.

The Record

The major features of the legislation, then, include the concept of an essential services disputes commission, which would intervene significantly in the collective bargaining process. All of the issues raised at the end of the first section in this chapter apply to Bill 100. The seven years of bargaining under legislation provide a valuable opportunity to assess the efficacy of such an approach in an important public sector.

The population under consideration in this section is confined to that involved in the 200 negotiation sessions conducted by the County and District Boards of Education and the Roman Catholic Separate School Boards (RCSS) during the school years from 1976-77 to 1981–82 inclusive.[7] Only actual negotiations in any given year were analysed: that is, those groups that did not bargain in a particular year as a result of a conclusion of a multi-year agreement in a previous year were excluded. This results in a combined total of almost 1000 sets of elementary school, secondary school and RCSS negotiations over the course of the six rounds. (See Table 11-1) The negotiations under study were conducted between the local school boards and local affiliates of five teachers' federations: the Ontario Secondary School Teachers' Federation (OSSTF), the Federation of Women Teachers' Associations of Ontario (FWTAO), the Ontario Public School Men Teachers' Federation (OPSMTF), the Ontario English Catholic Teachers' Association (OECTA), and *L'Association des Enseignants Franco-Ontariens* (AEFO).

Length of Negotiations

This section considers the duration or length of negotiations for each agreement type (elementary, secondary and RCSS) and for all types combined, for each year from 1976-77 to 1981-82 inclusive. For purposes of the analysis, it has been assumed that bargaining commences during the month of March in each year in which an agreement is due to expire.[8] Under the Act, notice of the intent to negotiate must be given during the month of January, and the first negotiation session must be held within thirty days of such notice. Therefore, the analysis assumes that notice was given in late January, with the first bargaining session taking place in early March. In

Table 11-1: *Bargaining Situations, 1976-77 to 1981-82*

	Elementary	*Secondary*	*RCSS*	*Combined*
1976-77	65	59	41	165
1977-78	74	71	45	190
1978-79	70	74	44	188
1979-80	62	54	42	158
1980-81	42	44	23	109
1981-82	50	51	37	138
Total	363	353	232	948

Table 11-2: *Average Number of Months Spent in Negotiations, Both by Sector and Combined, 1976-77 to 1981-82*

	Elementary	*Secondary*	*RCSS*	*Combined*
1976-77	7.8	7.8	7.3	7.7
1977-78	7.4	7.3	7.5	7.4
1978-79	8.7	10.2	7.6	9.0
1979-80	10.1	10.2	9.7	10.1
1980-81	8.3	9.2	7.6	8.4
1981-82	7.5	8.2	8.7	8.0

each case, the date of settlement has been recorded as the date upon which the collective agreement was executed.

Data on the length of negotiations are included in Table 11-2, and the results indicate a number of interesting features. First, negotiations in all Ontario education sectors have been quite protracted. In each negotiating round, 50 per cent of the bargaining units did not reach a settlement until after the contract expired, and this held true across each system (elementary, secondary and RCSS). The average length of negotiations over the entire period from 1976-77 through 1981-82 has exceeded eight months. That is, *on average*, after notice to bargain was given in January, the parties could not expect to reach an agreement until November. More important, there was every indication that until 1979-80, the duration of negotiations was increasing by sizeable amounts. The well-known chilling effect or the half-life effect, or both, seemed to be occurring. Following a slight reduction in the average number of months that it took for settlements to be reached between 1976-77 and 1977-78, the average time taken by all agreement types combined, in 1978-79 and 1979-80, increased by approximately 1.3 and 2.4 months respectively, over the 1976-77 year. This increase was consistent across all sectors. The average length of negotiations (comparing those in 1976-77 with those in 1979-80) increased by 2.3 months in elementary panels and by 2.4 months in both the secondary and RCSS sectors. Moreover, an analysis comparing the point at which 25 per cent, 50 per cent or 75 per cent of the negotiating situations reached agreement revealed that, by 1979-80, the length of time taken to reach each point had increased.

Part of the increase in the amount of time taken to reach agreement may be explained by the lifting of the federal government's Anti-Inflation Program in early 1978. There are problems with this explanation, however. Negotiations *during* the Anti-Inflation Program were just as detailed and complex, if not more so, than those in the post-control period. Moreover, when controls were lifted, almost all of the groups in the education sectors in Ontario negotiated in 1978, and just a handful emerged from controls in the 1979 bargaining round; yet the duration of the negotiations increased again in 1979, and by a substantial amount.[9] In addition, there is anecdotal evidence, provided by the parties in 1980, that it was the dispute-resolution procedures in Bill 100 that were delaying negotiations unduly. Many teacher and trustee groups testified before a government-appointed commission that, in particular, compulsory fact-finding, while useful in most cases, tended to have the effect of freezing negotiations in September and October, the very time at which progress was most likely to occur.[10]

In the final two years of the analysis period, there was a very significant decline in the duration of the negotiations. The average length for all systems declined from 10.1 months in 1979-80 to 8.4 months in 1980-81, and to 8.0 months in 1981-82. The decline was uniform across the elementary, secondary and RCSS systems. The decrease that occurred in the two consecutive rounds followed a change in policy by the ERC regarding the application of its dispute-settlement procedures, and the decline can be explained, at least in part, by this policy shift. This factor will be addressed in the last section of this chapter.

Number of Third-Party Appointments

There seems to be a tendency in public sector bargaining for the parties to over-utilize third-party procedures, rather than negotiate settlements on their own. An alternative view is that government agencies tend to overregulate public sector bargaining. Whatever the reason, one expects a greater incidence of third-party involvement in the bagaining process over time. To test for the presence of this narcotic effect, the number of third-party appointments made by the Commission is examined over the period from 1976-77 to 1981-82 inclusive.

In measuring third-party involvement, each type of appointment was assigned a value of one (1). The following is a list of third-party appointments:

- Pre-fact-finding mediation
- Fact-finding appointment, whether or not a report was written or released to the public
- Post-fact-finding mediation (the value is equal to the number of mediators appointed after fact-finding, but acting at separate and distinct times)

- A mediation team
- An interest arbitrator or chairman of a board of arbitration
- A final-offer selector
- A mediator-arbitrator.

For each negotiation situation, a total appointments 'score' was calculated, based simply upon the sum of the individual appointments, of those identified above, that were present. The mean and median number of appointments were calculated for each bargaining round, both for each agreement type and for all agreement types combined. Results of the analysis are contained in Table 11-3.

When all agreement types are combined, the average number of appointments rose in the first four rounds from 1.26 in 1976-77 to 2.17 in 1979-80. This same trend is exhibited when each sector is considered separately. A significant increase in the average number of appointments occurred in 1978-79, when the federal government's Anti-Inflation Program was dismantled; specifically, there was an average of 1.27 in 1977-78, which increased to 2.0 in 1978-79 for all sectors combined.[11] In every bargaining round, the secondary panel had the highest average number of appointments. This indicates that negotiations in this sector tend to be the most difficult. The consistent year-to-year increase in the number of appointments in the first four rounds was followed by a very sharp decline in the 1980-81 round and a further significant decline in 1981-82. In the last round, the average number of appointments was at an all-time low.

There is a relationship, as indicated in Table 11-4, between the size of the bargaining unit and the number of third-party appointments. On average, the larger the negotiating situation, in terms of full-time equivalent staff, the greater the number of appointments that will have been made. This conclusion is valid for all years combined and for each bargaining round under analysis. The ele-

Table 11-3: *Average Number of Appointments for Bargaining Situations, 1976-77 to 1981-82*

Year	*Elementary Avg.*	*Secondary Avg.*	*RCSS Avg.*	*Combined Avg.*
1976-77	1.31	1.03	1.49	1.26
1977-78	1.00	1.39	1.53	1.27
1978-79	1.64	2.47	1.59	2.00
1979-80	2.03	2.54	1.88	2.17
1980-81	1.05	1.93	1.35	1.47
1981-82	0.45	0.90	0.89	0.72

Table 11-4: *Average Number of Appointments by Bargaining-Unit Size, as Measured by Number of Full-Time Equivalent Teachers*

Size of Unit	*Average Number of Appointments per Group*
100 or fewer	0.80
100 – 500	1.77
500 +	2.20

ment of size could not account for the major decline in the number of appointments in the last two rounds, however, as virtually all groups negotiated in either the 1980-81 or the 1981-82 round. Nevertheless, whatever the reason for the decline may be, it was an important development because of its positive implications for the working of Bill 100 or the maturity of the parties, if not for both. A discussion of the decline is included in the final section of this chapter.

Stages of the Process Utilized

The conventional wisdom is that, with time, the negotiation procedures lose their efficacy, the parties over-utilize the procedures or become dependent upon them, or both phenomena occur. As a consequence, the parties become addicted to the procedures to an ever greater degree. The experience under Bill 100, which offers a plethora of hurdles to be jumped prior to a legal strike or lock-out, presents a good test of this concept. For example, a situation which utilizes mediation only has not progressed as far into the process as one which uses both mediation and fact-finding. In turn, a situation experiencing both mediation and fact-finding has not progressed as far as one which also experiences a last-offer vote.

There are many methodological problems relating to this issue, however. In an effort to set up a hierarchy of the various stages in the process to which the parties might have proceeded, ERC staff developed the following framework, where those items under the heading 'Stage' denote discrete categories and the numbers appearing under the heading denote the value assigned to each stage:

Stage
0 No third party
1 Fact-finding appointment only (no written report)
2 Mediation only

3 Pre-fact-finding mediation only + fact-finding appointment only
4 Fact-finding appointment only + post-fact-finding mediation
5 Pre- and post-fact-finding mediation + fact-finding appointment only
6 Fact-finding appointment + report written (no mediation)
7 Pre-fact-finding mediation only + fact-finding appointment and report written
8 Fact-finding appointment and report written + post-fact-finding mediation
9 Pre- and post-fact-finding mediation + fact-finding appointment and report written
10 Fact-finding appointment, report written and made public (no mediation)
11 Pre-fact-finding mediation only + fact-finding appointment; report written and made public
12 Fact-finding appointment, report written and made public + post-fact-finding mediation only
13 Pre- and post-fact-finding mediation + fact-finding appointment; report written and made public
14 Fact-finding with public report + last-offer vote
15 Pre-fact-finding mediation only + fact-finding report + last-offer vote
16 Post-fact-finding mediation only + fact-finding report made public + last-offer vote
17 Fact-finding only with report made public + last-offer and strike votes
18 Pre-fact-finding mediation only + fact-finding report made public + last-offer and strike votes
19 Post-fact-finding mediation only + fact-finding report made public + last-offer and strike votes
20 Pre- and post-fact-finding mediation + fact-finding report made public + last-offer and strike votes.

Several points should be noted regarding this rather complicated listing. First, the numeric value assigned to each stage is arbitrary. Thus, it is not clear that at, say, stage 8, a situation has progressed twice as far into the process as one which has proceeded only to stage 4. Secondly, with the exception of the appointment of a fact-finder who did not have to act and the occurrence of mediation (that is, stages 1 and 2), mediation has been ranked as a procedure which requires less third-party involvement than fact-finding, although the accuracy of this ranking is somewhat debatable. Finally, the occurrence of interest arbitration and final-offer selection have not been listed as a stage. Instead, they are treated as being similar to a strike or a lock-out: that is, as a final means to settlement. Thus, the highest-ranking dispute-settlement procedure included in the analysis is an ERC-supervised strike vote, which is one of the statutory procedures included in the Act. Despite these qualifications, however, the numeric values assigned to each stage can be used to provide a rough measure of the stages that are utilized in the negotiation process. It should be emphasized that what is of primary interest are *changes* that occur in the measure over time.

Preliminary analysis revealed that no situations experienced stages 5, 9 or 15. Therefore these were eliminated and the number of stages was reduced from 22 to 19, as stage 0 (No third party) was also omitted. The mean stages were calculated for each year both by sector and for all sectors combined. The results of the analysis are contained in Table 11-5. The yearly average number of stages for all sectors combined increased over the period from 1976-77 to 1979-80, from an average of 2.62 to an average of 5.52. This was also the case in each separate sector. A significant increase in the average number of stages occurred in 1978-79, when wage and price controls were removed. The trend continued in 1979-80, but was reversed in 1980-81, when there was a very substantial drop across all sectors. This was followed by a further decline in 1981-82. The average for all sectors combined had returned to approximately the same level experienced in 1976-77: that is, 2.97 in 1981-82, as compared with 2.92 in 1976-77.[12]

In summary, the rounds during the period from 1976-77 to 1979-80 were marked by an ever-increasing amount of time before a settlement was reached, as well as by greater involvement of third parties and greater penetration of the stages provided under Bill 100.[13] In general, more time, people and bargaining stages were utilized, both overall and in each sector. These trends were reversed in the 1980-81 and 1981-82 bargaining rounds, with average scores falling to approximately the 1976-77 level.

Table 11-5: *Average Number of Bargaining Stages for Bargaining Situations, 1976-77 to 1981-82*

Year	*Elementary*	*Secondary*	*RCSS*	*Combined*
1976-77	2.97	2.25	3.78	2.92
1977-78	2.38	3.54	3.87	3.16
1978-79	3.86	6.07	4.11	4.79
1979-80	4.73	6.11	5.93	5.52
1980-81	2.43	4.36	3.39	3.41
1981-82	1.48	3.65	3.92	2.97

Supervised Last-Offer and Strike Votes

Bill 100 provides two other unique procedures: supervised last-offer and strike votes. The experience with these procedures is worth reviewing because their utilization is an indication of the degree to which the parties stretch the process to its capacity and, more important, of whether or not there is an increase over time with respect to this tendency. Prior to any legal strike activity, the teachers must first request, in writing, the board's last offer. A secret-ballot vote on that offer must then be conducted under the ERC's supervision. If the teachers reject the offer, a second secret-ballot vote may then be held, again, under the supervision of the Commission, to determine whether the teachers favour a strike. To at least some degree, the utilization of these provisions is a rough index of the degree of conflict between the teachers and their school boards. Votes are a clear indication of the extent to which the teachers, in particular, will take their negotiations in terms of the exercise of sanctions. Table 11-6 includes the number of last-offer and strike votes supervised by the ERC since the inception of the Act.

First, with the exception of the 1979-80 bargaining round, very few sets of negotiations were pushed to the extent of either a last-offer or a strike vote. Secondly, the record does not indicate an increasing use of last-offer and strike-vote procedures. On the contrary, there was a smaller number of votes in the 1980-81 round, in both percentage and absolute terms, than in any previous reporting period. That is, fewer negotiations progressed to the point of sanctions in this period than in previous periods.

Strikes

Very few parties have agreed to use the procedures provided in the Act for voluntary arbitration or final-offer selection. Since the inception of the Act, and through 1981-82, there were just a handful of occasions when the parties decided to use either of these options. This perhaps would have disappointed those who drafted the legislation, for there was a feeling among them that many of the parties would avoid the potential use of sanctions by opting for arbitration or selection. None the less, the sanction (that is, strike) record is an extremely good one.[14] Over the entire period from 1975 to 1982, there have been only thirty-three sanctions. Table 11-7 lists them by board type, along with the number of instructional days lost. In some cases, teacher federations utilized the option of working to rule (which is defined as a strike under the legislation),

Table 11-6: *Supervised Last-Offer and Strike Votes, 1975-76 to 1981-82*

Vote	*1975-76*	*1976-77*	*1977-78*	*1978-79*	*1979-80*	*1980-81*	*1981-82*
Board's Last-Offer Votes							
Elementary	—	—	2	1	1	—	—
Secondary	15	5	8	9	12	1	7[a]
RCSS	—	5	5	3	12	3	5[c]
Other	—	—	—	1	1	1	—
Total	15	10	15	14	26	5	12
Strike Votes							
Elementary	—	—	1	1	1	—	—
Secondary	15	4	7	4	9	1	5[ab]
RCSS	—	1	4	2	7	2	5[c]
Other	—	—	—	1	1	—	—
Total	15	5	12	8	18	3	10

Notes

a. Includes separate votes conducted by OSSTF and AEFO in Simcoe.

b. Includes a strike vote taken in Northumberland and Newcastle, but the branch affiliate voted to accept the last offer received from the school board.

c. Includes separate votes conducted by OECTA and AEFO in Carleton RCSS.

rather than withdrawing services completely.[15] Table 11-7, therefore, lists the total instructional days lost, inclusive and exclusive of those lost as a result of work-to-rule practices.

One of the major pitfalls of public sector bargaining is that government or its agencies will not allow sanctions to continue, but instead yield to public pressure to end the dispute. Several other points, therefore, should be emphasized regarding the record on sanctions. First, only five of the thirty-three strikes have been ended through legislation, all in the first year the Act was in force. Second-

Table 11-7: *Sanction Record, 1975-76 to 1981-82*

Year/School Board	*Number of Sanctions*	*Average Number of Instructional Days Lost*	*Average Number of Days Lost, Excluding Work-to-Rule*
1975-76 Secondary	6[a]	42.7 (40.6)[b]	28.2 (32.7)
1976-77 Secondary	2	34.0	12.0
RCSS	1	9.0	9.0
1977-78 Secondary	5	42.0	26.7
RCSS	1	34.0	34.0
1978-79 Secondary	3	23.7	21.3
1979-80 Elementary	2	18	17.5
Secondary	3	45.0	47.5
RCSS	2	16.0	16.0
1980-81 Secondary	3	39.3	38.3
RCSS	1	9.0	9.0
1981-82 Secondary	2	25.5	25.5
RCSS	2	15.0	15.0

Notes

a. 11 sanctions if metro = 6.

b. Average if metro = 6.

ly, viable strikes are possible under Bill 100. The longest strike, in terms of a total withdrawal of services, occurred between the Sudbury Board of Education and its secondary school teachers. The strike lasted almost three months and was resolved through negotiations rather than binding arbitration. The longest strike, including those days on which the employees worked-to-rule, lasted seventy-three instructional days (almost four months). Thirdly, the government has never introduced legislation to end a sanction prior to an advisement from the ERC. As noted earlier, the Commission has a duty under the statute to advise the Cabinet when, in its opinion, the continuance of a strike or lock-out will place in jeopardy the students' courses of study. The government may or may not act on the advisement, and it has no obligation to wait for one to be issued before it legislates an end to a strike or lock-out. The Commission has issued an advisement in only seven of the thirty-three situations in which sanctions occurred, five of which were in the first year. Neither the government nor the Commission can be accused of being 'trigger happy' when sanctions do occur.

Finally, strikes have occurred in every sector (elementary, secondary and separate school) and there has been a tremendous variety in the length and type of sanction: some involve work-to-rule practices only, some involve total withdrawal of services only, and some a combination of the two. In some cases, there has been both a teacher sanction and a school board lock-out. For the most part, the parties have been allowed to pursue their bargaining strategies relatively unimpeded by government intervention. At the same time, the ERC has used a variety of dispute-resolution techniques to facilitate agreement once strikes occur, including the threat of an advisement if progress is not made in negotiations.

Commission Policy

The results of the ERC's policy with respect to the dispute-resolution procedures under the Act and the sanction record to date are very encouraging. The experience with Bill 100 clearly indicates that healthy and bona fide collective bargaining can take place in the public sector and without the predicted over-utilization as the legislation and the parties mature. The data presented clearly support this view, and there is general consensus that Bill 100 has functioned well. Indeed, the Matthews Commission,[16] set up to examine the experience under Bill 100, came to precisely that conclusion and made only a modest number of fine-tuning recommendations with respect to the Act. It should be added that the

Matthews Commission undertook the review at the end of the 1979-80 bargaining round, which was the most conflict-laden round. In their submissions to the Matthews Commission, the teachers' federations and school boards expressed general satisfaction with the Act, and submissions by the public, while not as positive, were certainly not overly critical of the legislation.

From the standpoint of dispute-resolution, the most significant feature of the record of the Act during the period from 1976 to 1982 has been the reversal, in the last rounds, of the earlier trend regarding the length and stages of, and the number of appointments to, negotiation. The reasons for the results are unquestionably complex and are not easily identified. To a very considerable extent, the underlying causes may be contextual, depending on environmental factors over which the main actors have little or no control. Yet, over the entire period, the economic climate confronting the parties remained remarkably constant, except when the Anti-Inflation Program was imposed in late 1975. That is to say, the period was consistently one of declining student enrolment, financial restraint and high rates of inflation. These factors have contributed to difficult negotiations in each year since the passage of the Act in 1975. While it would be presumptuous to claim that the turn-around in the last two rounds resulted solely from policy changes of the ERC, Commission policy did create at least some effect and should be discussed.[17] If nothing else, changes made by the Commission demonstrate how flexible and adaptable the procedures are under Bill 100.

The Commission exerts its greatest control over negotiations through the fact-finding process. Major changes, introduced by the Commission for the 1980-81 round, centred on that process, which is the cornerstone of Bill 100. Through fact-finding, parties are afforded an opportunity to clarify and narrow the differences between them. The process becomes mandatory once 31 August has passed (the contract expiry date in all teacher/school-board collective agreements). Furthermore, it is a procedure which, under the Act, must be followed before teachers can take strike action, and before a school board can initiate a lock-out. The fact-finding process recognizes the public's right to know not only the substantive, but also the procedural and attitudinal, issues of a dispute, in addition to each party's position, prior to an interruption to the normal school program. The ERC may appoint a fact-finder at any time during negotiations, either upon the request of one or both parties, or if the Commission deems that the parties are at an impasse and would benefit from such assistance. In the fact-finder's report, those matters upon which the parties have agreed, as well as those upon which they have not agreed, must be set out. The fact-finder has a broad mandate to comment generally on the state and substance of negotiations, and may make recommendations regarding *any matter* which he or she feels is relevant to any of the items in dispute. However, those recommendations are not binding upon the parties.

Under any labour legislation, including Bill 100, there is a very real danger that a process such as fact-finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the legislation and undermining its effectiveness. In 1979 some believed this was, in fact, occurring. Observations were made before the Matthews Commission that fact-finding had contributed to the length of negotiations, and that, in some instances, it was ineffective and perhaps over-utilized by the parties. The Matthews Commission also concluded that more mediation before, rather than after, the fact-finding process would be helpful. As a consequence, the ERC introduced a number of changes, primarily to reduce the length of negotiations and the number of third-party appointments. The strategy was to strengthen the fact-finding process and give the parties every opportunity to come to a settlement prior to the appointment of a fact-finder. To the extent that this was successful, settlements would be reached much earlier, and to that end, the Commission took a number of steps.

First, school boards and teacher-affiliates were encouraged to utilize fact-finding only if absolutely necessary. The parties were urged to continue negotiating even *after* their contract expired, if they were still making some progress, rather than apply for a fact-finder, so that negotiations would not be delayed. As noted previously, the Commission must appoint a fact-finder 'forthwith', once the contract expires. However, in 1980 the Commission delayed its appointments much longer than it had in the past, not making some until well into December. Secondly, the Commission strengthened the fact-finding process by conveying to the parties, and to its third-party neutrals, that if a settlement could not be reached through fact-finding, the fact-finder's report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties and to the public at least the broad outlines of a settlement. It would deal not only with matters of substance, but also with negotiation behaviour and attitudes. In short, turning to fact-finding would no longer be a risk-free strategy for the parties.

Thirdly, in 1980 and 1981 the Commission was successful in recruiting and appointing individuals who were extremely well qualified in either labour management or teacher/school-board relationships, or in both, and who could produce outstanding and strong fact-finding reports. The ERC encouraged fact-finders to include in their reports recommendations on the terms of settlement, and to back up their recommendations with a rationale and with data so that they would be more acceptable to the parties and more easily understood by the public. In the past, some fact-finders simply encouraged the parties to continue their negotiations. ERC staff report that the relative frequency of recommendations and the use of ERC data by fact-finders increased in the past two rounds. Fourthly, the ERC staff encouraged the parties to utilize *pre-fact-finding* mediation, in the hope that the number of issues would be significantly reduced prior to the introduction of fact-finding, or that such mediation would result in the parties settling their negotiations independently of fact-finding.

Two other changes that are congruent with this policy were also introduced in the 1980-81 round. First, the Commission began assuming the duty of releasing *all* fact-finders' reports to the local media in the area where the inquiry had occurred. Previously, the Commission had released such reports to the media only when the local parties had not done so. As a result, fact-finding had a very low public profile. In addition, the Commission requested that all fact-finders include summaries with their reports so that the media could cover each report accurately. These changes were introduced in response to the observation, made by the Matthews Commission, that fact-finding reports often were given little coverage by the media and, therefore, did not have the public impact intended by those who designed the legislation. Again, the purpose of this change was to develop a process which had more impact.

One final change was also introduced in the 1980-81 round. All of the Commission's third-party neutrals are free-lance individuals, appointed on an *ad hoc* basis. Since 1980 the Commission has attempted, through both recruitment and training, to add to its contingent a sizeable group of so-called 'intensive mediators' and to ensure that this type of individual is put into pre-fact-finding mediation situations.[18]

Again, while there is unquestionably a variety of reasons for the results of the last two rounds of negotiation, the fact remains that, in 1980-81 and 1981-82, the negotiations were very positive. In the 1980-81 round, more pre-fact-finding mediation was used than had been used in previous years, and in the ensuing round, there was a further increase in this type of assistance. At the same time, there was a dramatic decline in the occurrence of fact-finder appointments in 1980-81, which dropped from 61 to 37 per cent of all negotiation situations. In both the 1980-81 and 1981-82 rounds, fact-finders had to act in just 25 per cent of the situations. As noted, the result has been shorter negotiations.

It should be emphasized that the fact-finding process is similar in nature to the concept of conciliation boards, which for many years were an important part of Canada's labour-relations scene. The concept of the conciliation board, at least as applied to the private sector, has generally been viewed as a failure. By contrast, fact-finding and the procedures of Bill 100 have been a conspicuous success and a model to which industrial relations specialists should pay heed. Certainly, one of the key factors of this success is reports that include specific recommendations on substantive terms.

The other major lesson to be learned from Bill 100 is that no public sector strike is the same, nor is the impact of the strike identical in each case. Therefore, each case must be treated differently. Such differentiated treatment would allow an administrative tribunal the opportunity to pursue policies that are essential to the effective functioning of the collective bargaining process. For example, once the parties realize that intervention in a sanction will occur after a certain number of days, sanctions will tend to run for that number of days before a negotiated agreement occurs, or, alternatively, one of the parties will refuse to negotiate if he knows that legislation will end the sanction. An administrative tribunal, therefore, must keep the parties guessing with respect to this aspect, and the variety of sanctions and their impact, noted above, present the opportunity to pursue such a policy. This is similar to the arsenal-of-weapons approach recommended many years ago in the industrial relations literature.

An example will illustrate how the Commission has tried to convey to the parties, through communications and actions, that they must live with the consequences of their own actions. While some lengthy sanctions have been tolerated, the Commission has also made it clear that the students' courses of study must not be placed in jeopardy. A strike by the Leeds and Grenville secondary school teachers against their board of education presented the Commission with a complex and unique situation. That strike began on 7 May 1981, after seventeen months of negotiations. By early June, the students had missed twenty-five days (five weeks) of school, and the state of negotiations was deteriorating. It was clear that the dispute would not be settled before the end of June. For the first time under the Act, the Commission was faced with the possibility of a total withdrawal of services, which would span two school years. As a consequence, the chairman, at the direction of the Commission, wrote to the Minister of Education on 11 June. This letter recommended that the Minister:

> . . . consider the enactment of legislation before the adjournment of the Legislature to terminate the secondary school strike in Leeds and Grenville and that proclamation of the legislation by the Lieutenant-Governor in Council be deferred until such time as an advisement under section 60(1)(h) is tendered by the Commission.

As a result, Bill 124, An Act Respecting the Leeds and Grenville County Board of Education and Teachers Dispute, was passed on 3 July, but was *not* proclaimed.[19] This allowed the Commission to offer some assurance to parents, students and the public that their concerns were being seriously considered. It also allowed the Commission to investigate the matter of jeopardy without interrupting or freezing the negotiations. That is, the terms of Bill 124 put pressure on both parties to settle the dispute on their own.

In July, after passage of Bill 124, the ERC notified the parties that it was calling for submissions from interested individuals and organizations in the community on the extent of the jeopardy in which the students' courses of study were being put. The Commission believed that this could be done under Bill 124 without the usual chilling effects on negotiations, because of the pressure that the bill maintained on the parties. On 17 August, the parties met a mediator appointed by the Commission. Intensive mediation sessions ensued, which continued throughout the rest of the month and resulted in a tentative agreement. The agreement was ratified by the teachers on Labour Day, 7 September 1981, and school opened the next day for the fall term, as scheduled.

The resolution of the strike by the Leeds and Grenville secondary school teachers is just one example of the variety of techniques that may be used by the Commission once a sanction takes place. The choices are limited, but nevertheless, a broad array of approaches is possible and has been used; these approaches include the appointment of a single mediator or of two-person and three-person mediation teams, the use of private and public mediator proposals, and the assignment of ERC staff to an *ad hoc* mediator to provide resource assistance.

In conclusion, an essential services disputes commission must have such a variety of tools at its disposal, as well as the discretion to adopt new and different approaches. If complemented by a sound legislative framework, such as Bill 100, an essential services disputes commission is clearly a sound concept. It may not be a perfect solution to the public sector dilemma, but it does seem to be the best option available.

Acknowledgements

I am indebted to Mr. Ed Aim, Research Director of the Education Relations Commission, whose assistance in preparing this paper, as always, has been invaluable.

Bryan M. Downie

Notes

1. M. West, "Sorting Out the Mail Strike: What are the Alternatives to the Strike Weapon?".
2. The Public Service Staff Relations Act, of course, introduced the latter approach in Canada. The decision of the Supreme Court of Canada in 1982 on the matter of essentiality in the federal public sector has been a set-back for this approach. L. Barnes has suggested the decision means that the government, in its role of employer, has, in effect, the unilateral right to decide which of its employees can proceed to a strike as the ultimate step in an industrial dispute. He went on to note, "The Public Service Staff Relations Act is to say the least, obsolescent in many respects." See L.W.C.S. Barnes, "The Air Traffic Controllers Case: A Public Service Watershed". See L. Panitch and D. Swartz, in Chapter 12 of this work, for a discussion of the designation decision.
3. Canada, Privy Council Office, *Canadian Industrial Relations: The Report of the Task Force on Labour Relations*, pp. 170–172.
4. P. Weiler presented this paper at the McGill Conference on Essential Service Disputes, the same conference at which Ed Finn, a labour reporter and union staff member, made a similar proposal. See P.C. Weiler, "Making a Virtue Out of a Necessity: Reflections on Strikes by Essential Public Employees".
5. P. Weiler, *Reconcilable Differences: New Directions in Canadian Labour Law*, p. 246.
6. B.M. Downie, *The Behavioural, Economic and Institutional Effects of Compulsory Interest Arbitration*.
7. The 1975-76 round, the first round after the passage of the Act, is excluded because detailed statistics were not gathered by the Commission until the 1976-77 round.

8. Because January and February have been excluded in calculating the length of negotiations, one could argue that the duration of negotiations has been understated. The months of July and August have been included, however, even though the typical pattern is for the parties to adjourn negotiations in late June until early September. In any comparisons which might be made between the length of teacher/school-board negotiations and those in other sectors, the matter of the summer hiatus of two months in education negotiations should be taken into account. This is not a factor, however, in the present analysis, as the summer break would apply to all agreement types in all years.

9. In 1978-79, which was the first round *after* controls, almost all groups were at the end of one-year agreements. Of the 158 situations negotiating in 1979-80, on the other hand, only 15 were negotiating for the first time free of Anti-Inflation Board (AIB) controls. As noted, in that round, the duration of negotiations continued to rise.

10. Ontario, Ministry of Education, *Report of a Commission to Review the Collective Negotiations Process Between Teachers and School Boards.*

11. In 1979-80, the fifteen groups negotiating for the first time since the lifting of controls experienced an average appointments score of 0.87. The other groups (143) which had emerged from controls during the previous round, but which were negotiating again in 1979-80, had an average appointments score of 2.31.

12. It is unlikely that the fluctuations were because of the lifting of AIB regulations. Again, almost all groups negotiated in 1978, and only a handful did so in the 1979 round, by which time the program had absolutely no influence on bargaining. Yet the number of stages continued to increase in 1979. The 15 groups negotiating for the first time since the removal of controls experienced an average stage score of 2.60, compared with 5.83 for the 143 groups negotiating for the second time since the removal of controls.

13. While there will be a tendency for length, stages and number of appointments to move in the same direction, there need not be a positive, or even a very close, correlation. For example, it is quite possible for the number of appointments to increase while length of negotiations and the number of stages decrease. Similarly, negotiation length could increase while the number of stages declines. The latter would be unusual, but certainly not impossible.

14. For example, comparative data from the Ontario Ministry of Labour over the period from 1977 through 1980 reveal that, on a relative basis, there have been far fewer strikes under Bill 100 than there were in Ontario's private sector. Strike frequency (the total number of strikes as a per cent of total bargaining situations) in the private sector ranged from 8.3 per cent in 1977 to 15.2 per cent in 1979. Under Bill 100, the range has been 1.6 per cent (in 1978) to 5.1 per cent (in 1979). Over the four-year period, there also have been relatively fewer strikes under Bill 100 than there were in Ontario's public sector.

15. A strike is defined in Bill 100 as any action or activity by teachers, in combination or concert, "designed to curtail, restrict, limit or interfere with the operation or functioning of a school program . . .". Work-to-rule action includes such tactics as refusing to supervise extracurricular activities (such as music and athletic programs), strictly observing school hours, and refusing to prepare lessons.
16. The members of the Commission were Professors B. Matthews, Chairman (University of Waterloo), John Crispo (University of Toronto), and R. Fraser (Queen's University).
17. This is not to argue that the Commission's efforts cannot be swamped by other factors. For example, wage controls in the Ontario public sector today may result in major changes to negotiations.
18. 'Mediator intensity' refers to a mediator's level of immersion or involvement in the process of dispute-resolution. A mediator who acts with low intensity usually focuses on identifying the issues in dispute, probes the problems which lie behind the issues, and generally assists the parties to improve their lines of communication. At higher levels, a mediator more actively assists the parties in setting priorities, 'packages' issues for discussion and trade-off, and even offers other possible solutions to the dispute. At the highest level of intensity, it is not uncommon for a mediator to use persuasion and other forms of pressure to encourage settlement. A recent American study has confirmed what many labour relations experts believe: that is, intensive or active mediators are likely to be more effective in facilitating agreements between the parties than mediators who act with low intensity; see P.F. Gerhart and J.E. Drotning, "A Six State Study of Impasse Procedures in the Public Sector: Final Report".
19. By the time Bill 124 was passed, secondary school students had missed six weeks of school, which included their final examinations. Nevertheless, the sanction was shorter at that point than a number of other secondary school strikes had been. Significant features of Bill 124 included:
    - Final-offer selection as a means of resolution of all items remaining in dispute
    - Choice of the selector by the Commission
    - A compulsory three-year collective agreement to cover the period from 1 September 1980 to 31 August 1983.

Bibliography

Barnes, Leslie W.C.S. "The Air Traffic Controllers Case: A Public Service Water-shed". *Worklife* 2 (1982): 23.

Canada. Privy Council Office. *Canadian Industrial Relations: The Report of Task Force on Labour Relations*. Ottawa: Queen's Printer, 1969.

Downie, Bryan M. *The Behavioural, Economic and Institutional Effects of Compulsory Interest Arbitration*. Discussion Paper No. 147. Ottawa: Economic Council of Canada, 1979.

Gerhart, Paul F. and Drotning, John E. "A Six State Study of Impasse Procedures in the Public Sector: Final Report". Unpublished study in connection with U.S. Department of Labor Contract, No. J-9P-7-0149, September 1980.

Ontario. Ministry of Education. *Report of a Commission to Review the Collective Negotiations Process Between Teachers and School Boards*. Toronto: The Ministry, 1980.

Weiler, Paul. "Making a Virtue Out of a Necessity: Reflections on Strikes by Essential Public Employees". *The Problem of "Essential Services": Inconvenience, Importance or Emergency*. Montreal: McGill University Industrial Relations Centre, 1979: 5–26.

Weiler, Paul. *Reconcilable Differences: New Directions in Canadian Labour Law*. Toronto: Carswell, 1980.

West, Michael. "Sorting Out the Mail Strike: What are the Alternatives to the Strike Weapon?" *Toronto Star* (4 July 1981): 131–34.

12: *From Free Collective Bargaining to Permanent Exceptionalism: The Economic Crisis and the Transformation of Industrial Relations in Canada*

LEO V. PANITCH
and
DONALD SWARTZ

LEO V. PANITCH is Professor, Department of Political Science, at York University.

DONALD SWARTZ is Associate Professor, School of Public Administration, at Carleton University

Contents

Introduction **407**
The Era of Reform **410**
The Rebirth of Exceptionalism **420**
The New Era **425**
Acknowledgements **429**
Notes **429**
Bibliography **433**

From Free Collective Bargaining to Permanent Exceptionalism: The Economic Crisis and the Transformation of Industrial Relations in Canada

Introduction

As the present comes to be seen as history, it is likely that 1982 will be taken as marking the end of an era of industrial relations in Canada, an era that began some forty years before with the federal government's wartime Order in Council of 1944, P.C. 1003. This Order in Council established legal recognition of the rights of private sector workers across Canada to organize, to bargain collectively and to strike, and it backed these rights with state sanctions against employers who refused to recognize and bargain with trade unions. In 1948, P.C. 1003 was superceded by the Industrial Relations Disputes Investigation Act, which gave these rights a 'permanent' legislative basis for private sector workers under federal jurisdiction. Broadly similar legislation was adopted by the provinces, with notable delay occurring only in Quebec. In the 1960s, these rights were extended, albeit unevenly and only partially, to groups of workers who were not specifically covered by the original acts, particularly public sector workers. These legally established rights have been universally seen — and not least by the Canadian trade union movement itself — as marking the point at which Canada extended democracy to include so-called 'free collective bargaining' and finally acted in accordance with the 1919 declaration of the International Labour Organization (ILO) that "a free society cannot coerce any of its citizens into working in conditions that are not truly and generally acceptable". The view expressed in the ILO statement assumed that, despite continuing exclusions from, and limitations on, free trade unionism in Canada, there would be steady, if slow, progress towards the full realization of trade-union rights by all workers. Typically of reformist ideology, it further assumed that the reforms in this arena were irreversible and cumulative.

Such a world view inevitably tends to outlive the social realities which gave rise to it. The social realities of 1982 may finally put this particular world view to rest, for in that year not only did Canada's new Constitution, with its Charter of Rights and Freedoms, exclude the right to strike from being enumerated as a 'fundamental freedom', but that right has also been abrogated for over one million of the three and a half million organized workers in Canada. The silence of the Charter of Rights and Freedoms, together with the loud prohibitions of Bill C-124 and its counterparts in Ontario and Quebec, symbolizes the end of the post-war era of industrial relations in Canada.[4]

> In the present state of society, in fact, it is the *possibility* of the strike which enables workers to negotiate with their employers on terms of approximate equality. It is wrong to think that the unions are in themselves able to secure this equality. If the right to strike is suppressed, or seriously limited, the trade union movement becomes nothing more than one institution among many in the service of captialism: a convenient organization for disciplining the workers, occupying their leisure time, and ensuring their profitability for business.[1]

> For this so-called 'rebirth of the trade union movement' to be genuine, however, it would have to include independent unions administered and led by officials who were nominated freely and elected by secret ballot. They must also have the rights normally associated with labour unions, including the strike weapon. . . . The trade union movement, as envisioned by the bill, would not be so much a movement as an aggregation of individual unions. . . . The right to strike would technically exist, but would be severely cramped by complex regulations. There would be a requirement of seven days notice preceeding a strike. Any strike 'of a political character' would be prohibited,

> with the government having discretion to decide what is politically motivated. The bill would provide arbitration procedures for labour disputes and forbid any strike over an issue that could be arbitrated . . . .[2]

> It is the pattern in all countries that, as soon as the bourgeoisie reconciles itself to the fact that trade-unionism is here to stay, it ceases to denounce the institution as a subversive evil that has to be rooted out with fire and sword in order to defend God, country, and motherhood, and turns instead to the next line of defense: domesticating the unions, housebreaking them, and fitting them into the national family as one of the tame cats.[3]

Most public discussion of the Public Sector Compensation Restraint Act, as Bill C-124 is officially called, tends to treat it as imposing a two-year period of statutory wage restraint on federal employees, in conformity with the slogan of '6 and 5' (that is, the ceilings on wage increases of 6 per cent and 5 per cent in the two years that followed the Act's adoption). But the Act does much more: it completely suppresses the right to bargain and strike for all public employees covered by the legislation, and it abrogates existing collective agreements. What it lacks in comprehensiveness, as compared with the Anti-Inflation Act of 1975–78 (which covered both public and private sector workers), it more than makes up for in the severity with which it treats the workers covered. The abrogation of the rights to strike and bargain was accomplished by extending existing agreements for two more years, since strikes during agreements were proscribed under the earlier legislation. Thus, the present Act uses the legislation which established free collective bargaining to deny it today, a denial which includes the rolling back of already-signed agreements providing for increases greater than 6 and 5 per cent during the life of Bill C-124.

Similar legislation, the Restraint of Compensation Act, has been adopted by Ontario. As well as applying to the employees of the provincial government and of Crown corporations, this Act covers the employees of municipalities, schools, hospitals and privately owned, parapublic sector companies that are contracted to, or funded by, the province (including nursing homes and ambulance services). In Quebec, the Parti québécois government used Bill 70 to decree new one-year collective agreements for public sector workers in 1983, thereby pre-empting their right to strike. These agreements required pay reductions of up to 20 per cent. Companion legislation, Bill 105, imposes three-year agreements on many categories of public sector workers. Not only will these workers be earning less at the end of 1985 than they were in 1982, but Bill 105 *rewrites* the terms of their collective agreements regarding job security and working conditions, thereby jeopardizing the jobs of over 11 000 teachers. Together, these Acts affect approximately 1.3 million unionized workers.

These Acts were, of course, 'temporary'. They merely suspended the right to strike and the right to free collective bargaining for a two-year period in the federal case and for fifteen-months in Ontario's case. Yet there are good reasons for thinking that this is indeed a situation where the old French saying, *c'est seulement le provisoire qui dure*, has particular merit. These temporary measures are part of a long-term trend, which includes the repeated use of back-to-work legislation, the adoption of the statutory incomes policy in 1975, the jailing of prominent union leaders for the first time in the post-war era, and finally, the increased designation of public sector workers as 'essential', thereby removing their right to strike. Taken together with the silence of the Charter of Rights and Freedoms, one can see the emergence of an era of relatively permanent restrictions on the rights of labour.

During the era that is now ending, both the state and capital relied, more than they had before World War II, on workers in general and unions in particular consenting to participate as subordinate actors in Canada's capitalist democracy. The era ahead marks a return, albeit under quite different conditions, to the state and capital relying more openly on coercion — on force and on fear — to secure that subordination. This is not to suggest that coercion was in any sense absent from the post-war era or that coercion is about to become the only or even, always, the dominant factor in labour relations. But there is a changing conjuncture in the Canadian political economy, and it marks a change in the way in which coercion and consent are related to each other, a change that is significant enough to demarcate a new era. This chapter will examine the rise and fall of the era of so-called 'free collective bargaining', and will speculate, in conclusion, on the shape that the new era will take in the foreseeable future.

The Era of Reform

The social relations under which capitalist production takes place embody a structural antagonism of interests between employers and employees. Since the employment contract gives the employer, as the purchaser of labour time, the right to determine what is done by employees at work, the exercise of this right involves the use of power. In turn, workers have historically recognized that collective organization and the threat of a collective withdrawal of labour are necessary to advance their interests *vis-à-vis* the employer. Both formally free actors in the capitalist labour market, the employer and the employee seek to establish their interests, ideologically and legally, in terms of rights the state recognizes: the rights of property and managerial prerogative on the one hand and on the other, the right of freedom of association and the right to strike.

The evolution of liberal capitalist societies into liberal democratic societies is conventionally understood in terms of the institution of mass suffrage. However, the distinction between a democratic and an authoritarian capitalist regime never rests only on mass suffrage; it is equally — indeed, in some cases, more clearly — a distinction which rests on the absence or presence of freedom of association. The long struggle of the working classes for political representation within the system of the state was matched through the nineteenth and twentieth centuries by struggle against the legal prohibition of the right to free association for wage labour. Liberal democracy not only brought the working class into the representative system on the basis of individual, universalistic, non-class-specific criteria; it also involved the state's recognition of the collective class-specific organizations of labour, the trade unions, as legitimate representatives of workers. Moreover, the independence of trade-union associations from direct interference by the state was established.

Prior to 1872, trade unions and strikes were offences under the restraint-of-trade laws. The Trade Unions Act of 1872 did not grant positive rights to unions, but merely removed them from liability under commercial legislation. Thus, the resistance of capital to unionization in succeeding decades was the chief focus of industrial relations. The state's extensive use of force to defend employers against unionization was a hallmark of Canadian labour history, with the deployment of the RCMP against the workers in the 1919 Winnipeg General Strike exemplifying the coercive role of the state. To be sure, through the Royal Commission on Labour and Capital of 1889, the establishment of the Department of Labour in 1900, and the passage of the Industrial Disputes Investigation Act (IDIA) of 1907, the state also played a role in attempting to moderate and contain labour conflict. But even the 1907 Act restricted freedom of association. A recent study of this period concluded that the Act was, in the fashion characteristic of the Canadian state until the 1940s, directed "towards the *ad hoc* suspension of hostilities" in the context of "a generalized defence of private property rights by the capitalist state".[5]

In the 1940s, the state turned away from *ad hoc* coercive and conciliative mechanisms in dealing with workers' struggles for union recognition and began to establish the principle of freedom of association for workers. It is only with P.C. Order 1003, a wartime measure, that a comprehensive stable policy emerged which favoured union recognition and free collective bargaining. The tenor of this new policy was graphically captured in Justice Rand's famous 1946 ruling on union security:

> In most of the Provinces and by dominion war legislation, the social desirability of the organization of workers and of collective bargaining where employees seek them has been written into laws. . . . The corollary from it is that labour unions should become strong in order to carry on the functions for which they are intended. This is machinery devised to adjust, toward an increasing harmony, the interests of capital, labour and the public in the production of goods and services which our philosophy accepts as part of the good life; it is to secure industrial civilization within a framework of labour-employer constitutional law based on a rational economic and social doctrine. . . .
>
> In industry, capital must in the long run be looked upon as occupying a dominant position. It is in some respects at greater risk than labour; but as industry becomes established, these risks change inversely. Certainly the predominance of capital against individual labour is unquestionable; and in mass relations, hunger is more imperious than passed dividends.
>
> Against the consequence of that, as the history of the past century has demonstrated, the power of organized labour, the necessary co-partner of capital, must be available to redress the balance of what is called social justice; the just protection of all interests in an activity which the social order approves and encourages.[6]

It must be stressed that this new era in labour relations did not evolve suddenly from the progressive minds of legislators, judges and industrial relations experts. Nor had capitalists miraculously been transformed into far-sighted social philosophers (as Rand's judgment against the Ford Motor Company itself attests). Rather, the labour legislation of the 1940s was a product of a heretofore unparalleled shift in the balance of class forces in Canadian society.

Beginning in the mid-1930s and increasing in intensity with the national mobilization for war and the return of full employment in the early 1940s, Canada witnessed an unprecedented tide of sustained and comprehensive working class mobilization and politicization. As a prominant historian stated, "the trade union world seethed with discontent over the injustices resulting from the refusal of both private and government corporations to bargain collectively".[7] In 1943, one out of every three trade-union members was engaged in strike action, a proportion only exceeded in 1919.[8] Just as significantly, union membership grew rapidly, doubling between 1940 and 1944.

The surge in industrial militancy was echoed in 1943 by the dramatic rise in the popularity of the Co-operative Commonwealth Federation (CCF) in the opinion polls and by Communist and CCF victories in by-elections. In addition, despite the fact that the direct political challenge was short-lived, industrial militancy, after abating in 1944 and early 1945, did not end. In 1948 the temporary industrial relations reform that was initiated by P.C. 1003 became 'permanent' peacetime legislation, largely because of this sustained militancy:

> The fall of 1945 marking the return to peace was hailed by both parties — not altogether secretly — as a testing time: was effective collective bargaining to dominate the field of labour relations or was it not? The showdown at Ford in Windsor in November-December and that at Stelco some months later were crucial.[9]

Thus the era of 'free collective bargaining' came to be.

The use of the word 'free' in the phrase 'free collective bargaining' has a crucial double meaning. It suggests that a balance of power obtains between capital and labour, and that these forces face each other as equals; otherwise, any bargain could scarcely be viewed as one which was achieved 'freely'. It also suggests that the state's role is akin to that of an umpire, involving the application, interpretation and adjustment of impartial rules. With the first meaning, the structural inequality between capital and labour is obscured; with the second, the use of the state's coercive powers on behalf of capital is obscured.

Industrial relations orthodoxy in the post-war era of free collective bargaining accepted both meanings of the word 'free'. We shall not dwell here on the continued structural inequality between capital and labour. It will suffice to mention the massive inequality in resources available to each party in the relationship. First, in sheer scale, flexibility and durability, capital's material resources continued to overwhelm those of labour. Secondly, the organizational and ideological resources of labour remained scarcely measurable against the network of associations, organizations, advisory bodies, in-house publications and mass media which were owned by, or financially beholden to, capital. Finally, the greater access to the state that was enjoyed by capital throughout the post-war period has been well documented.[10] The supremacy of capital in the era of free collective bargaining, in both its ideological and coercive dimension, is well captured by the sociologist, Laski, as follows:

> The right to call on the service of the armed forces . . . is normally and naturally regarded as a proper prerogative of the ownership of some physical property that is held to be in danger . . . . [But] we should be overwhelmed if a great trade union, in an industrial dispute, asked for, much less received, the aid of the police or the militia or of the federal troops to safeguard it in a claim to the right to work which it argued was as real as the physical right to visible and corporeal property, like a factory . . . .[11]

Laski, of course, recognized that in "a political democracy set within the categories of capitalist economies . . . the area within which workers can maneuver for concessions is far wider than in a dictatorship". But he also asserted that even within a capitalist democracy, the labour movement is confronted with "an upper limit to its efforts beyond which it is hardly likely to pass".[12]

This reference to capital's privileged access to the coercive apparatus of the state brings us directly to the second meaning of 'free' in the phrase 'free collective bargaining', for the limits beyond which labour was "hardly likely to pass" were not left to the imagination in Canadian labour policy after World War II. The very same legislation which supported the right to recognition and which guaranteed the right to strike also constrained the nature of bargaining and the exercise of union power in a highly detailed manner. The true thrust of the legislation in this respect has been unwittingly laid bare by a noted labour lawyer in a defence of the conventional interpretation of free collective bargaining, as follows:

> There are two parts of a labour code which are central to the balance of power between union and employer. One is the use of the law to facilitate the growth of union representation of

> organized workers. The other is the use of the law to limit the exercise of union economic weapons (the strike and the picket line) once a collective bargaining relationship has become established.[13]

The "other" part of the labour legislation of the 1940s to which the writer referred was precisely the extensive set of limitations that were placed on collective action by unions, thereby establishing one of the most restrictive and highly juridified frameworks for collective bargaining in any capitalist democracy. Modelled after the U.S. Wagner Act, Canadian legislation went "beyond it", as labour historian Harold Logan noted, in naming and proscribing unfair practices by unions, in assuming a responsibility by the state to assist the two negotiating parties, and in forbidding strikes and lock-outs during negotiations and for the term of the agreement.[14] Part and parcel of union recognition and the promotion of collective bargaining were a broad set of legal restrictions regarding eligibility for membership and the precise circumstances for legal strike action. Apart from restrictions on picketing and secondary boycotts, the most important restriction on the right to strike, and the device used recently to abrogate the right to strike in the public sector, was the ban on strikes during the term of a collective agreement. Canadian unions have rarely complained of this restriction and have rather readily accepted the requirement that they act as agents of the law by formally notifying their members of the legal obligation not to engage in unofficial or wildcat strikes.

It is critical to understand that the new mechanisms promoting the institutionalization of union recognition and free collective bargaining were, as Justice Rand said, "devised to adjust, toward an increasing harmony, the interests of capital, labour and public", in light of the shift in the balance of class forces that had taken place. It was an adjustment devised not to undermine, but to secure and maintain under new conditions capital's long-run 'dominant position'. The post-war settlement between capital and labour, which involved limited measures to reduce unemployment and establish the welfare state, as well as the new labour legislation, did not create equality between the contending classes. Rather, it fashioned a new hegemony for capital in Canadian society. Through formal mechanisms for negotiation and redistribution, consent assumed a visibly dominant role in interclass relations, while coercion, still crucially present, was kept in the background. The presence of coercion in capital-labour relations became less *ad hoc* and arbitrary: as state support for workers' freedom of association became more formal, so coercion, too, became more formal. What before had taken on the appearance of the Mounties' charge now increasingly took the form of the rule of law by which unions policed themselves in most instances.

The passage of the Industrial Relations and Disputes Investigation Act in 1948 by the federal government, accompanied by similar provincial legislation, signified that legal protection of the freedom of workers to organize and to bargain would be, in fact, a central element of the post-war settlement. The labour movement undoubtedly expected that the reforms were permanent gains which would be extended gradually to other workers and perhaps liberalized.[15] Moreover, given that the settlement also expanded the role of the state, substantial growth in the number of public sector workers was ensured. It might have been expected that the extension of bargaining rights would have begun among public employees.[16] There was, however, little growth of bargaining rights in the post-war decades. In general, the unionized proportion of the non-agricultural work force remained close to the 1948 figure of 30 per cent until the mid-1960s, and prior to that period there was no extension of legislative protection in the fast-growing public sector; indeed, the only changes involved the imposition of additional restrictions on existing collective rights.[17]

The end to this impasse came suddenly in the mid-1960s, sparked by the Quiet Revolution in Quebec. The previous twenty-five years had seen a profound transformation of the economic base of Quebec and of its working class, including the growth of unionization. Despite this transformation, the provincial state remained in the grip of conservative rural interests. The Quebec government's response to a succession of strikes, from the 1949 asbestos strike through to the violent and well-publicized strike by copper miners and smelting workers in Murdochville in 1957, was hostile and

Table 12–1: *Union Membership in Canada, 1940 to 1948*

	Membership (000's)	*Per cent of Non-agricultural Work-force*
1940	362	17.3
1944	724	24.3
1948	978	30.3

Source: Department of Labour, *Labour Organization in Canada* (Ottawa: Information Canada, 1975), pp. 28-29.

repressive, thereby fostering a relatively radical working class and intelligentsia.[18] The 1961 election victory of the Lesage Liberals formally broke the hold of the *ancien régime* on the Quebec state, and initiated belated and rapid political change in the province. This process required a political settlement with labour, no less than had been necessary elsewhere in Canada in the 1940s. One term of the settlement was the extension of bargaining rights in 1965 to Quebec's public sector workers.

The impact of the breakthrough in Quebec reverberated throughout Canada, since the reforms went well beyond what had been achieved in English Canada. Significant political restructuring was inevitable, not only in Quebec, but on the federal level as well. Moreover, the new Quebec Liberal Party, reflecting the initiatives of a radical bourgeois intelligentsia, influenced the federal Liberals, who needed to find a new image after the conservative St. Laurent-C.D. Howe government of the 1950s was routed by the populist Diefenbaker Conservatives in 1958. The apparent appeal of the recently formed New Democratic Party (NDP) was an additional incentive to the Liberals, who desired a quick return to their accustomed position as the governing party. At the federal level, the effects of the new reality were apparent when the 'three wise men', Pierre Trudeau, Gérard Pelletier and Jean Marchand, gained influence over the leadership of the Liberal Party. In addition, federal public employees in Quebec, who were part of the politicization process of the Quebec working class, intensified their efforts to win the same demands from their own employer. Pressure from Quebec was a powerful boost to the insistence of federal workers elsewhere on bargaining rights after the Diefenbaker government, faced with the 1958-1961 recession, broke precedent by rejecting the pay increase proposed by the bipartite National Joint Council (which, since 1944, had advised the government on these matters).[19]

The 'second wave' of the welfare state in Canada, undertaken by the minority Liberal governments of the mid-1960s, was in good part a result of these developments. A significant element of this process, apart from the introduction of medicare and pension reforms, was the appointment of the Heeney Commission in 1963, to examine the question of collective bargaining rights for federal workers. That Heeney would recommend in favour of collective bargaining for federal workers was a foregone conclusion; what was at issue was how free the bargaining really would be.

The government's commitment to the rights of its workers was no deeper than that of capital. As employers, governments have a unique rationale for restricting their employees' freedom of association, namely, the supremacy of Parliament. As a result, while the federal government finally conceded collective bargaining rights to its employees in 1967, it insisted on restrictions beyond those imposed on private sector workers. Vital issues, including pensions, job classifications, technological change, staffing and the use of part-time or casual labour, were wholly or partly excluded from the scope of bargaining. Serious consideration was given to denying federal workers the right to strike, as well, but in the end the right was granted, largely because of the willingness, in the mid-1960s, of postal employees, led by those in Quebec, to call a number of what, in effect, were recognition strikes. These strikes did much to persuade the government that making strikes illegal was no guarantee that they would be prevented.[20] The reverberations of the Quiet Revolution in Quebec were also felt in the rest of Canada's provinces, where collective bargaining became the order of the day for most public sector workers. However, only a limited range of trade-union freedoms was conceded. First, in most provinces, a number of crucial issues were decreed to be outside the scope of bargaining. Secondly, in Alberta, Ontario, Prince Edward Island and Nova Scotia, provincial employees, and often others, such as hospital workers, were denied the right to strike.[21]

The alleged breakthrough of the 1960s, in terms of the extension of free collective bargaining, must be seen, therefore, in terms of its continuing narrow limits. It would be wrong to ascribe these limits just to the resistance of particular sections of capital or to the ideology of Liberal politicians. An equally important, and largely ignored, factor has been the remarkable conservatism of the English-Canadian labour movement, which repeatedly proved incapable of taking the initiative in generating demands and mobilizing support for reforms to challenge the terms of the post-war settlement. In this respect, the adverse effect of the 1940s' legislation on the character of the Canadian labour movement must be taken into consideration.

In reflecting on the approach to union recognition of the IDIA, Logan observed that: "The powerful weapon of the strike, as an aid to negotiation through militant organization, was weakened in its usefulness where the approach to recognition had to be certification".[22] Logan's reference to the manner in which the legislation devalued militant organization is of crucial importance. Unlike the capitalist firm, with its natural singularity of purpose, unions aggregate discrete individuals with their own purposes. The power of unions lies in the willingness of their numbers to *act* collectively, and in order to do so, a common purpose must be *developed*.[23] This is, of course, a social process — an outcome of education and organization involving sustained interaction between the leaders and the led — and one requiring particular skills. Moreover, the centrifugal pressures of a liberal consumer-oriented society mean that the process never ends.

The certification approach to recognition did more than just weaken the apparent need for militant organization; it directed the efforts of union leaders away from mobilizing and organizing and towards the juridical arena of the labour boards. In this context, different skills were necessary. It was crucial, above all, to know the law, including legal rights, procedures and precedents. The result was to foster a legalistic outlook in which union rights appeared as privileges bestowed by the state, rather than as democratic freedoms to be won and defended by collective struggle.[24] The ban on strikes during collective agreements and the use of compulsory arbitration to resolve disputes while agreements were in force had a similar effect. Under these circumstances, it was unnecessary to develop and maintain collective organization between negotiations. Indeed, union leaders had a powerful incentive to do the reverse and suppress any sign of spontaneous militancy. This type of industrial relations legislation treats unions as legal entities which are distinct from their members. Thus, greater penalties may be imposed on union officials who violate the law than on members who do so, and this intensifies the pressure on the former to act as agents of social control over their members.

The corrosive effects on union democracy of this kind of juridical and ideological regime are severe.[25] The trade unionism that developed in Canada during the post-war years bore all the signs of the web of legal restrictions which enveloped it. Its practice and outlook were highly legalistic and bureaucratic, and accordingly, its collective strength was limited. These characteristics were reflected in the acceptance of the greater restrictions on public employees' freedom of association by the broader labour movement. Moreover, the existing labour movement provided no other inspiration or example than legalism for those public sector unions that were granted partial collective bargaining in the 1960s. This model was particularly debilitating for those public sector unions that had to engage in very little struggle for recognition, compared to those unions that originally formed the labour movement and the industrial unions that organized in the period prior to the post-war settlement. Thus a union like the Public Service Alliance of Canada (PSAC), in contrast to the Canadian Union of Postal Workers (CUPW), was one born almost entirely of legalism, rather than of mobilization and struggle.[26]

This, of course, is not to suggest that the newly recognized public sector unions were content with what had been offered them. For many, the limited rights were seen only as a way station; the final destination was the acquisition of rights equivalent to those enjoyed in the private sector. As events would have it, this was to be a naïvely optimistic view, for at the same time that the way station was reached, the road-bed was beginning to crumble, as the state had to contend with the wage pressure of the late 1960s and early 1970s while adjusting to the constraints placed on it by the crisis of capitalism.

The Rebirth of Exceptionalism

The decade of the 1960s is frequently portrayed as one of (university) student radicalism and militancy, as contrasted with working-class consumerism and acquiescence.[27] This contrast is much overdrawn, however, as the so-called 'revolt' of the 1960s was, in broad measure, a generational one.[28] By the 1960s, the working class was being infused with the outlook of the post-war generation no less than the universities. That generation's frame of reference did not include the Depression or the Cold War, and it grew up believing in the myth of a classless affluent society. The contrast between this image and the reality did not so much tarnish the image as inspire the members of that generation to make it part of their reality.[29] One way to achieve incomes consistent with the image was through collective bargaining, and the use of this method was first exhibited in the wave of strikes that took place in the mid-1960s, many of which were 'wildcat' strikes (that is, strikes not sanctioned by union leadership) and were even, on occasion, marked by violence. This wave continued into the early 1970s, when, instead of abating, it reached a new crest as public sector workers, whose demands were inspired by similar material aspirations, exhibited their willingness to fight in order to achieve them.[30]

The heightened degree of industrial conflict, however, reflected both greater militancy and resistance on the part of workers and more determined resistance by capital and the state, in light of the deepening economic crisis. The long post-war boom led many to believe that economic growth was inevitable, that if capitalism had not quietly passed away, its anarchic character had been subdued by governments armed with Keynesian theory.[31] But this boom could not, and did not, last. The 1970s were characterized by 'stagflation': growth rates below the level necessary for full employment, combined with severe inflationary tendencies. In such conditions, the margin for concessions to secure labour's consent no longer existed; indeed, capital increasingly required concessions. Faced with stagnant or shrinking markets, rising resource prices, increased foreign competition and a labour movement ready to defend its living standards, capital experienced reduced-profit margins on existing investments and few new profitable opportunities.

One response to the situation by governments, both in Canada and elsewhere, involved the provision of new subsidies to capital in the form of loans, grants and tax concessions, thus underwriting investment and shifting the cost of the welfare state on to employed workers.[32] But these initiatives had little impact on growth and tended to exacerbate inflation, in so far as organized workers responded militantly in order to protect their real incomes. Government deficits ballooned as expenditures (on corporate subsidies, the unemployed and public sector wages) rose. The other major response by the state was to restrict the bargaining power of organized labour. One way in which governments attempted to achieve this was to obtain the 'voluntary' agreement of union leaders to limit members' wage demands, and, in exchange, to give the unions a role in state economic decision making, to promise reforms enhancing such things as union security or marginal extensions of the welfare state, or to do both.[33] The other strategy was to use the state's coercive powers against the labour movement. These two strategies should not be seen as mutually exclusive. Coercive measures, intentionally or otherwise, did prompt unions to rethink their opposition to the so-called 'voluntary' restraint. On the other hand, the inability of the state to deliver a *quid pro quo* during the economic crisis in some form of the social wage (that is, those social programs supplied collectively, such as pensions and unemployment insurance) undermined the viability of the voluntary restraint option, in turn forcing the state to adopt more coercive measures.

Initially, government policy at the federal and provincial levels reflected both strategies. In 1969-70 and again in 1974-75, the federal government attempted to secure the co-operation of the Canadian Labour Congress (CLC) through voluntary restraint.[34] In a number of jurisdictions, there were reforms enhancing union security and workers' collective rights; among these were a relaxation of the restrictions on secondary picketing (in British Columbia), an expansion of the right to refuse unsafe work (in Ontario and Saskatchewan and at the federal government level), provisions for imposing 'first agreements' on recalcitrant employers (in British Columbia, Ontario and Quebec), and limitations on the use of strikebreakers (in Quebec). None the less, as the decade of the 1970s wore on, the shift towards new coercive measures was particularly noteworthy. This shift is reflected in the rising incidence of *ad hoc* back-to-work legislation at both the federal and provincial levels.

The first post-war use of such legislation was made by the federal government in 1950 against railway workers, who were striking for a forty-hour week and a pay increase. The justification for the legislation, both then and subsequently, was, to quote Prime Minister St. Laurent, that "the welfare and security of the nation are imperilled".[35] Not surprisingly, the Prime Minister insisted that it was "not designed to establish precedents or procedures for subsequent bargaining negotiations".[36] Events were to prove otherwise, however, as railway workers were threatened with similar legislation in 1954 and were actually subjected to it again in 1960 and 1966. The increased frequency and wider application of back-to-work legislation was not the only notable trend in the state's use of this weapon. Over time, governments have, after the onset of a dispute, introduced such legislation with greater dispatch and with less parliamentary debate, and have included increasingly onerous penalties for defiance of the law.

This new reliance on back-to-work legislation is part of a broader pattern of development, one which characterizes the onset of a new era in the policy of the state towards labour. What marks this transformation is a shift from the generalized rule-of-law form of coercion (whereby an overall legal framework both establishes and constrains the rights and powers of all unions) towards a form of selective, *ad hoc*, discretionary, state coercion (whereby the state removes, for a specific purpose and period, the rights contained in labour legislation). We have witnessed a return to the pre-P.C. 1003 era of the "*ad hoc* suspension of hostilities", not to avoid or delay the establishment of freedom of association, but to contain or repress manifestations of class conflict within the institutionalized freedom of association. Actions legal under general legislation are increasingly declared unlawful for particular groups of workers or for all workers for a particular period of time. When the resort to emergency rhetoric and powers to override the general framework of freedoms becomes common, there is clearly a crisis in the old form of rule. This is precisely what has happened in Canada over the last decade.

The treatment accorded to CUPW by the federal government in 1978 is illustrative of this trend. At that time, the government stated publicly *in advance of a strike* that it would not tolerate the union's exercise of its legal right to strike. Once the strike began, the government immediately invoked back-to-work legislation, the Postal Services Continuation Act, Bill C-8, which revived the previous collective agreement and overrode the relatively small penalties contained in the Public Service Staff Relations Act in order to establish potentially unlimited penalties. Finally, the government charged the union's leader, J.C. Parrot, not for encouraging his members to defy the back-to-work law, but for *remaining silent*, that is, for not publicly urging them to obey the law.[37] Similar requirements of union leaders that had been specified in previous back-to-work legislation had escaped notice because they either were obeyed, or if not, were disregarded by the government. In charging Mr. Parrot and in granting him bail on the condition that he tell CUPW members what the law required, the state set aside not only the general legal provisions for the union's right to strike, but also the protection of free speech contained in the Bill of Rights.

The increased resort to back-to-work legislation was only one sign of the end of the era of free collective bargaining. Equally significant were the use of designations in the public sector to remove the right to strike from a much broader group of workers and the use of statutory incomes policy to suspend free collective bargaining.

Under the 1967 legislation extending collective bargaining to federal public employees, the government reserved the right to designate certain jobs as being "essential for the safety and security of the public", and, hence, to deny the workers performing these jobs the right to strike. The Public Service Staff Relations Board (PSSRB) defined "safety and security" rather narrowly, so that the right to strike could not be vitiated by the indiscriminate use of designations.[38] The government accepted that definition until 1982, when it successfully challenged the Board's definition in the Supreme Court in order to designate virtually all air-traffic controllers as essential.[39] As a result of this ruling, the government is now free to designate anyone whose normal work activities, *in the gov-*

Table 12-2: *Back-to-Work Legislation in Canada, 1950 to 1978*

	Federal	*Provincial*	*Total*
1950–1970	4	9	13
1971–1975	4	11	15
1976–1978	6	13	19
Total	14	33	47

Source: A. Price, "Back to Work Legislation: An Analysis of the Federal and Ontario Governments' Increased Propensity to End Strikes by Ad Hoc Laws 1950–1978".

ernment's own view, concern the safety and security of the public. From three sets of negotiations which followed the decision, the government's future intentions can be assessed. In two cases, the percentage of workers that were designated as essential was increased by 50 per cent, to include over 40 per cent of all workers in the Program Managers category of the federal public service and over 90 per cent of heating and power workers. In the other case, the Library Science bargaining unit, the number of designations remained insignificant.[40] It would appear that this difference reflects the application of an implicit criterion whereby designation is based on the bargaining strength of the group of workers in question.

The use of back-to-work legislation and designations primarily concerns public sector workers. The statutory income policy of the Anti-Inflation Program of 1975-78 suspended free collective bargaining for *all* workers. It was initiated by the government and upheld by the courts on the basis of an elastic definition of economic emergency. Once again, the rules of the game, established in the post-war settlement, were set aside through special legislation which empowered the Anti-Inflation Board to examine newly negotiated agreements and to roll back wage increases which exceeded the government's guidelines. The Act created an 'administrator', who, backed by onerous penalties of unlimited fines and five years of imprisonment, would enforce Board reports and Cabinet orders. The new spirit of the era was adequately expressed by Prime Minister Trudeau when he cynically told a radio interviewer, immediately after the initiation of the Anti-Inflation Program: "We'll put a few union leaders in jail for three years and others will get the message".[41]

It is now virtually universally conceded that despite the government's rhetoric that price, dividend and profit restraint would be equivalent to statutory wage restraint under the Anti-Inflation Program, the substantive aspect of the policy entailed only wage controls.[42] Prime Minister Trudeau, in his October 1982 broadcast, referred to a comprehensive, but temporary, statutory prices-and-incomes policy, of the type used from 1975 to 1978, as follows: ". . . what controls are for [is] to place the coercive use of Government power between Canadians, like a referee who pushes boxers apart and forces them to their corners to rest up so that they can hit each other again."[43] A more appropriate metaphor would have the re[illegible]e holding the arms of one of the boxers while the other flailed a[illegible]im.

The New Era

As indicated in the Introduction, a new era in labour relations has been signalled by the events of 1982, which combined the silence of the new Constitution on bargaining and strike rights with yet another, but this time particularly draconian, 'temporary' suspension of those rights for a great number of Canadian workers. However, they inaugurate a new era only to the extent that they make explicit what has already been implicit in the developments over the last decade. What has been made explicit is that the *ad hoc*, selective, 'temporary' use of coercion is not merely directed at the particular groups of workers that are affected or at the particular issue or emergency at hand. Rather, it is designed as an example of what is considered to be appropriate behaviour throughout the industrial relations system. The suspension in 1982 of the rights of public sector workers is not proclaimed or defended in terms of how it directly helped to stem inflation and reinvigorate Canadian capitalism; rather, it is offered as an example of what other workers must voluntarily do if these objectives are to be attained.

What characterizes the new era is not only a series of *ad hoc*, coercive measures by the state, but also the construction of a new ideology to generalize the state's new coercive role to the working class as a whole. Because this new ideology is not legally codified in the manner of the post-war settlement, because it does not universally remove the right to strike and the right to free collective bargaining, the new state coercion is paradoxically capable of being ideologically portrayed as 'voluntary'. Thus, the Prime Minister's October 1982 broadcasts to the nation emphatically declared that the government had explicitly rejected the option of the "coercive use of Government power".

> Controls could not create the trust in each other and belief in our country that alone would serve our future. Controls would declare, with the force of law, that Canadians cannot trust Canadians. . . . To choose to fight inflation, as a free people acting together — that is the course we chose.[44]

The presentation of the increased use of state coercion on this ideological level is conditional on three elements. The first is a form of ideological excommunication regarding the rights of public sector workers *qua* Canadian citizens. The draconian controls established over these workers in 1982 became hidden amidst careful phrases, which assert that only '*comprehensive* controls' are coercive and contrary to the principle of a "free people acting together". The current controls are, rather, examples for other workers' so-called 'voluntarism'. That this sleight-of-hand can even be attempted rests upon the fact that, for a decade, state employees have been denigrated as parasites, and state services, understood not long ago as essential to the community and to social justice, have been denigrated as wasteful and unproductive.

The second element necessary to this depiction of coercion is that the specific acts of coercion, such as back-to-work legislation, designation and statutory incomes policies, be continually portrayed as temporary, exceptional and emergency-related, regardless of how frequently they occur, and regardless of the increasing numbers of workers who fall within their scope or are threatened by their 'example'. In so far as the terminology of emergency and crisis can be made elastic enough to cover an entire era, rather than just specific events, months or even years, measures that are presented as temporary can come to characterize an entire historical period.

Finally, and perhaps most important, the voluntary ideological veneer of the new era rests upon the construction of a new set of norms which would justify labour's subordinate role within capitalism. The post-war settlement sought to maintain the dominant position of capital by establishing legal rights for organized labour in order to protect the workers' immediate material interests in a capitalist system. The ideology of the new era reverses this earlier logic. It places the onus on labour to maintain capitalism as a viable economic system by acquiescing in the restriction or suspension of its previously recognized rights and freedoms, as well as by sacrificing its immediate material interests. Whereas the 'question of social justice' was the key phrase in the construction of the hegemony of the 1940s, Prime Minister Trudeau's "question of trust and belief" becomes the key phrase in the effort to reconstitute it in the 1980s.

It must be stressed that the Prime Minister and his government do not stand alone in effecting the construction of the "trust and belief" element of the new ideology. They are aided not least by a bevy of industrial relations experts, many of whom are recognized publicly for their 'pro-labour' sentiments. A good example is provided by Paul Weiler in his *Reconcilable Differences: New Directions in Labour Law*.[45] At one level, his book displays with refreshing candour the dilemmas of a liberal reformer, as it attempts to combine a spirited defence of the right to strike with a model of state intervention which will ensure that this right will not be disruptive to capital. At another level, it is an unwitting contribution to the construction of the new ideology in that it attempts to justify statutory incomes policies as being in labour's interests. Weiler acknowledges that the

1975-78 Anti-Inflation Program involved effective wage restraint only, adding that for economic reasons (the 'openness' of Canada's economy) and political reasons (capitalist objections and the evils of bureaucracy), such programs cannot do more than restrain incomes. Nor does he view wage increases as the sole cause of inflation. None the less, he commends controls on, if not the government's lack of candour to, labour, arguing that it is in labour's interests to acquiesce in such policies. The uncertainty that inflation creates "interfere[s] with rational business planning and investment", thereby reducing the rate of job creation, and by making Canadian products less competitive internationally, it threatens "unemployment in our plants and factories." Controls in this context "*facilitate* an orderly winding down of inflation... with a minimum of disruption and unemployment."[46] In other words, labour should eschew efforts to defend its economic interests directly and, instead, entrust its future to capital.

The trust and belief required of labour in this new era may sound reasonable, but it is not. It requires that labour trust that capital will use workers' forgone wages and social benefits to invest in Canada, rather than abroad; yet no guarantees are offered that this will, in fact, be done. It requires that labour trust that capital will not speculate in land, currency or commodity markets or use re-established profit margins to reward executives lavishly. Indeed, if trust and belief in capital are the requirements of the day for workers, what, one might ask, is the use of unions at all? Are they useful only if they can be induced to spread the new ideology and to police their members' adherence to the new coercive interventions and their 'voluntary' by-products?

What will be the labour movement's response to the new era? It cannot be assumed that Canadian labour will lie down and play dead. Some Canadian unions, such as the United Auto Workers, have been much less cowed by their employers than have their American counterparts and have managed to obtain significantly better terms. Similarly, Canadian public employees appear to have been less frightened by threats of cut-backs in public expenditures than their American counterparts have been. These facts may explain why the state significantly restricted the Canadian working class in 1982. However, they tell little about how workers will respond in the longer term.

There is little reason to expect that the Canadian labour movement will be immediately capable of mounting any meaningful or sustained counter-offensive. Not only have the unions traditionally respected the law even when it abrogated previous legislation which enshrined workers' rights,[47] but they have also been remarkably unprepared for each successive coercive blow of the state over the past decade. Despite the repeated attacks on the right to strike, the CLC, virtually alone among large interest groups in Canada, remained aloof from the constitutional debate, not even making representation to the parliamentary hearings regarding inclusion of the right to strike (or to free collective bargaining or full employment) in the Charter of Rights and Freedoms. Yet other liberal democratic constitutions contain such rights: for example, that of Italy. Although the practical effects of such declarations may not be great, inclusion of such rights at least helps to legitimate union struggles regarding these issues. Even an unsuccessful campaign for including such rights in the Constitution would have put the issue before their members and the broader public.

For various reasons, including the federal NDP's alliance with the Liberals and the reluctance of the Quebec Federation of Labour to be seen to be improving a Constitution which the Quebec government unalterably opposed, the CLC did not act. Ironically, on the very day (12 January 1981) that the Justice Minister appeared before the special parliamentary committee to present the government's amendments to the Charter of Rights and Freedoms, made in response to the submissions received from about one hundred groups across Canada, the National Union of Provincial Government Employees announced plans to seek action from the federal Labour Minister in the wake of an ILO ruling that the Alberta government had violated international labour conventions (ratified by Canada in 1972) in denying its own employees the right to strike.[48] Would the CLC have been less complacent about the Constitution if it had known that only two months after it was proclaimed, the right to strike would be 'temporarily' removed from federal employees as well? To be sure, the defence of the right to strike does not ultimately lie in representations to parliamentary committees on constitutional rights. But is it any less evident that the Canadian labour movement is capable of undertaking a sustained co-ordinated defence — industrially, politically and ideologically — of the right to strike? Years of neglect of the mobilizing aspects of trade unionism and years of the practice of legalism have taken their toll on the fighting capacity of union organizations.

Nevertheless, one should not overestimate the dominance of capital and the state in this crisis, nor the permanence of the present union paralysis, for the contradictions to be contained by the new ideology are not easily managed. The ideology of the era of free collective bargaining was rooted in a material basis of consent, given by the expansion of post-war capitalism. It should be recalled, moreover, that the West's moral superiority in the Cold War was, in part, sustained precisely by the post-war settlement's legal proclamation of workers' democratic rights amidst the refrain of 'social justice'. Today, however, the material basis of consent is less easily summoned up. And fighting the new Cold War entails, as the *Globe and Mail* editorial quoted at the beginning of this chapter so clearly points out, defending Polish workers' rights at the same time that Canadian workers' rights are being denied. The conditions are not propitious for selling the new coercion in terms of voluntarism and freedom.

Similarly, one's assessment of the combative potential of the union movement should not be restricted to what the CLC or the union leadership accomplishes or argues in oppositon to the new coercion. It is one of the paradoxes of economic depressions that workers are made acutely aware of the benefits of collective action and solidarity precisely because their employers are less chary of asserting managerial authority in a period of high unemployment. There will certainly be a struggle on the ground, as there was in the 1930s, to change the character of the union movement in Canada. The era of free collective bargaining induced legalism and complacency regarding union organization and officialdom. In turn, the era of discretionary coercion may be expected to induce a rather different, more combative, labour movement.

Acknowledgements

We would like to express our appreciation to L. Sefton-MacDowell, G. Swimmer, M. Thompson, P. Warrian and R. Whitaker for their helpful comments on an earlier draft of this chapter.

Leo V. Panitch

Donald Swartz

Notes

1. P.E. Trudeau, *The Asbestos Strike*, p. 336.
2. "Son of Solidarity", *The Globe and Mail* (8 October 1982).
3. H. Draper, *Karl Marx's Theory of Revolution*, p. 108.
4. Wage controls were imposed in other provinces, such as British Columbia, Saskatchewan and Nova Scotia, but we have limited our focus to central Canada, where the strike rights were also abrogated.

5. P. Craven, *'An Impartial Umpire': Industrial Relations and the Canadian State 1900–1911*, p. 306. Craven notes (cf. pp. 301–2) that H.D. Woods, despite arguing that the primary purpose of the IDIA was "the establishment of a bargaining relationship, and not, as commonly supposed, the delaying of strikes or lockouts", concludes that in practice it "was little more than a public-interest, emergency-dispute policy".
6. Justice I.C. Rand, "Rand Formula", pp. 1251-52.
7. H.A. Logan, *State Intervention and Assistance in Collective Bargaining: The Canadian Experience 1943–1954*, p. 75.
8. L. Sefton-MacDowell, "The Formation of the Canadian Industrial Relations System During World War Two".
9. Logan, *State Intervention and Assistance in Collective Bargaining*, p. 75.
10. For a recent survey of the relevant literature, see L. Panitch, "Elites, Class and Power in Canada".
11. H. Laski, *Trade Unions in the New Society*, pp. 66-67.
12. *Ibid.*
13. P. Weiler, *Reconcilable Differences: New Directions in Canadian Labour Law*, p. 25.
14. See Logan, *State Intervention and Assistance in Collective Bargaining*, pp. 26-27. The 'formal' equality of the ban on strikes and lock-outs during collective agreements is, needless to say, illusory, since the lock-out is but one of several of the economic weapons of capital.
15. Immediate post-war reforms were often presented as 'down payments' towards more comprehensive measures. For example, federal assistance to the provinces to extend health-care facilities, particularly hospitals, was presented as a step towards health insurance, a Liberal party 'promise' since 1919; see D. Swartz, "The Politics of Reform: Conflict and Accommodation in Canadian Health Policy", pp. 311–343.
16. It is well recognized that the working conditions (including pay and managerial practices) of public employees were inferior to those of private sector workers employed by major corporations. It should be noted here that in 1944, the CCF government in Saskatchewan granted bargaining rights to provincial employees.
17. The unionized proportion of the work-force did increase suddenly from 30 to 33 per cent between 1952 and 1953, and then declined slowly to just below 30 per cent in the mid-1960s. The 1952-53 increase came about primarily because of a contraction of 100 000 in the labour force. In British Columbia, new restrictions were imposed on the right to strike generally, while in Alberta, what were deemed 'public interest disputes' were subject to more sweeping restrictions; see S. Jamieson, *Industrial Relations in Canada*, p. 130ff.

18. See, for example, Jamieson, *Industrial Relations in Canada*, p. 32ff., and H. Milner, "The Decline and Fall of the Quebec Liberal Regime: Contradictions in the Modern Quebec State".
19. H.W. Arthurs, *Collective Bargaining by Public Employees in Canada: Five Models*.
20. There is some suggestion that Jean Marchand, the former president of the CNTU and the most sought after of the 'three wise men', made the granting of the right to strike a condition for remaining in the government (personal communication from G. Swimmer). Were this true, any assessment of its importance would have to place it in the context of the period.
21. A useful, if somewhat dated, overview of provincial labour legislation can be found in S.B. Goldenberg, "Collective Bargaining in the Provincial Public Services".
22. Logan, *State Intervention and Assistance in Collective Bargaining*, p. 76.
23. C. Offe and H. Wiesenthal, "Two Logics of Collective Action".
24. For a brilliant elaboration of this argument within the context of the United States, see K.E. Klare, "Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-1941". R. Warskett, "Trade Unions in the Canadian State: A Case Study of Bank Worker Unionization 1976-1980", develops a similar argument in her timely and perceptive study of efforts to organize bank workers in Canada.
25. For a graphic illustration, see J. Deverell, "The Ontario Hospital Dispute 1980-1981".
26. For more on this point, see Chapter 3 in this work, by Joseph B. Rose.
27. This position was common on the 'left', as well as in mainstream thinking; see, for example, H. Marcuse, *One-Dimensional Man* and J. O'Connor, *The Fiscal Crisis of the State*.
28. R. Miliband, *The State in Capitalist Society*, p. 217, observed that ". . . business is able freely to propagate an ethos in which private acquisitiveness is made to appear as the main if not the only avenue to fulfillment, in which 'happiness' or 'success' are therefore defined in terms of private acquisition . . .".
29. A broadly similar argument is made by S. Jamieson, *Industrial Relations in Canada*.
30. See G. Swimmer, in Chapter 5 of this work.
31. This boom was, in fact, the product of an historically specific set of conditions which obtained at the end of World War II: the unchallenged dominance of the United States in relation to the major capitalist countries, which allowed it to order the international financial system; the extensive task of post-war reconstruction in Europe; huge discoveries of cheap resources; the colonial or neo-colonial dependency of most of the Third World; and the moderation of the

labour movement in the West, not least because of the Cold War. While signs of their passing were already dimly visible by the mid-1960s, the formal announcement came in 1971, when President Nixon of the United States renounced the Bretton Woods agreement, on which the post-war international financial order was based. See I. Gough, "State Expenditure in Advanced Capitalism".

32. See, for example, D. Wolfe, "The State and Economic Policy in Canada, 1968-75" and I. Gillespie, "On the Redistribution of Income in Canada".

33. See L. Panitch, "The Development of Corporatism in Liberal Democracies".

34. An extensive discussion of these attempts in Canada and the reasons for their failure is found in L. Panitch, "Corporatism in Canada". See also A. Maslove and G. Swimmer, *Wage Controls in Canada 1975-78: A Study of Public Decision Making*.

35. Quoted in A. Price, "Back to Work Legislation: An Analysis of the Federal and Ontario Governments' Increased Propensity to End Strikes by Ad Hoc Laws 1950-1978", p. 98. Based upon a detailed examination of these legislative orders by the federal and Ontario governments, Price concludes that seldom, if ever, was there such a threat. Rather, government intervention was designed to prevent serious disruption of immediate concern to a relatively small segment of society, or to prevent broad public inconvenience (p. 90).

36. *Ibid.*, p. 99.

37. See H.J. Glasbeek and M. Mandel, "The Crime and Punishment of Jean-Claude Parrot".

38. The 'designation' of the Governor General's gardener during the 1974 strike by the General Labour and Trades bargaining unit illustrates the willingness of the government to exploit this provision.

39. *Re The Queen in Right of Canada and Canadian Air Traffic Controllers Association*, No. 2 (1982) 1 S.C.R. 696.

40. Information supplied by an official of PSAC.

41. See L. Panitch, *Workers, Wages, and Controls: The Anti-Inflation Programme and Its Implications for Canadian Workers*, especially pp. 1 and 18.

42. In their review of the policy-making process, Maslove and Swimmer, *Wage Controls in Canada 1975-78*, found that the major reason for the program was to control wages. *Ex post* analyses of the 1975–78 controls have shown that wage settlements were restrained (see L.N. Christofides, and D.A. Wilton, *Wage Controls in Canada (1975: 3–1978: 2): A Study of Their Impact on Negotiated Base Wage Rates*), but profit and price increases were unaffected, given the actual increase in labour costs (see T.A. Wilson, and G.V. Jump, *The Influence of the Anti-Inflation Program on Wages and Prices: A Simulation Analysis*).

43. Quoted in The Globe and Mail (21 October 1982) p. 5.

44. *Ibid.*

45. We do not mean to suggest that all recognized industrial relations 'experts' share either Weiler's general stance or specific view.

46. Weiler, *Reconcilable Differences*, p. 254.

47. This is most obviously illustrated by the CLC's abandonment of — indeed, Dennis McDermott's explicit attack on — the postal workers in 1978.

48. See *The Globe and Mail* (13 January 1982).

Bibliography

Arthurs, H.W. *Collective Bargaining by Public Employees in Canada: Five Models.* Ann Arbor: University of Michigan-Wayne State University, Institute of Labor and Industrial Relations, 1971.

Christofides, L.N. and Wilton, D.A. *Wage Controls in Canada (1975: 3–1978: 2): A Study of Their Impact on Negotiated Base Wage Rates.* Ottawa: Minister of Supply and Services Canada, 1979.

Craven, Paul. *'An Impartial Umpire': Industrial Relations and the Canadian State 1900–1911.* Toronto: University of Toronto Press, 1980.

Deverell, J. "The Ontario Hospital Dispute 1980-81". *Studies in Political Economy* 9 (Fall 1982): 179–90.

Draper, Hal. *Karl Marx's Theory of Revolution.* Vol. 2. New York: Monthly Review Press, 1978.

Gillespie, W. Irwin. "On the Redistribution of Income in Canada". *Canadian Tax Journal* 24 (July/Aug. 1976): 417–50.

Glasbeek, Harry and Mandel, Michael. "The Crime and Punishment of Jean-Claude Parrot". *Canadian Forum* 59 (August 1979): 10–14.

Goldenberg, Shirley B. "Collective Bargaining in the Provincial Public Services" in *Collective Bargaining in the Public Service*, pp. 12–43. Toronto: The Institute of Public Administration of Canada, 1979.

Gough, I. "State Expenditure in Advanced Capitalism". *New Left Review* 92 (August 1975): 53–92.

Jamieson, S. *Industrial Relations in Canada.* Toronto: Macmillan, 1973.

Klare, Karl E. "Juridical Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-1941". *Minnesota Law Review* 62 (1978): 265–339.

Laski, Harold J. *Trade Unions in the New Society*. London: George Allen and Unwin, 1950.

Logan, H.A. *State Intervention and Assistance in Collective Bargaining: The Canadian Experience 1943–1954*. Toronto: University of Toronto Press, 1956.

Marcuse, Herbert. *One-Dimensional Man*. Boston: Beacon Press, 1964.

Maslove, Allan and Swimmer, Gene. *Wage Controls in Canada 1975-78: A Study of Public Decision Making*. Montreal: The Institute for Research on Public Policy, 1980.

Miliband, R. *The State in Capitalist Society*. New York: Basic Books, 1969.

Milner, Henry. "The Decline and Fall of the Quebec Liberal Regime: Contradictions in the Modern Quebec State" in *The Canadian State: Political Economy and Political Power*, edited by Leo Panitch, pp. 101–32. Toronto: University of Toronto Press, 1977.

O'Connor, James. *The Fiscal Crisis of the State*. New York: St. Martin's Press, 1973.

Offe, Claus and Wiesenthal, Helmut. "Two Logics of Collective Action". *Political Power and Social Theory* 1 (1980): 67–115.

Panitch, Leo. *Workers, Wages, and Controls: The Anti-Inflation Programme and Its Implications for Canadian Workers*. Toronto: New Hogtown Press, 1976.

Panitch, Leo. "The Development of Corporatism in Liberal Democracies". *Comparative Political Studies* 10 (April 1977): 61–90.

Panitch, Leo. "Corporatism in Canada". *Studies in Political Economy* 1 (Spring 1979): 43–92.

Panitch, Leo. "Elites, Class and Power in Canada" in *Canadian Politics in the 1980s*, edited by M.S. Whittington and G. Williams, pp. 167–88. Toronto: Methuen, 1981.

Price, A. "Back to Work Legislation: An Analysis of the Federal and Ontario Governments' Increased Propensity to End Strikes by Ad Hoc Laws 1950–78". M.A. thesis, Queen's University, 1980.

Rand, Justice I.C. "Rand Formula". *Canadian Labour Law Reporter*, No. 2150, (189 — September 1958): 1251–60.

Sefton-MacDowell, Laurel. "The Formation of the Canadian Industrial Relations System During World War Two". *Labour/Le Travailleur* 3 (1978): 175–96.

Swartz, Donald. "The Politics of Reform: Conflict and Accommodation in Canadian Health Policy" in *The Canadian State: Political Economy and Political Power*, edited by Leo Panitch, pp. 311–43. Toronto: University of Toronto Press, 1977.

Trudeau, Pierre Elliott. *The Asbestos Strike*, first published in 1956. English translation by J. Boake. Toronto: James Lewis and Samuel, 1974.

Trudeau, Pierre Elliott. Televised Address to Canadians, 20 October 1982, reprinted in *The Globe and Mail* (21 October 1982), p. 5.

Warskett, R. "Trade Unions in the Canadian State: A Case Study of Bank Worker Unionization 1976–80". M.A. thesis, Sociology, Carleton University, 1981.

Wilson, T.A. and Jump, G.V. *The Influence of the Anti-Inflation Program on Wages and Prices: A Simulation Analysis.* Ottawa: Minister of Supply and Services Canada, 1979.

Weiler, Paul. *Reconcilable Differences: New Directions in Canadian Labour Law.* Toronto: Carswell, 1980.

Wolfe, David. "The State and Economic Policy in Canada, 1968–75" in *The Canadian State: Political Economy and Political Power*, edited by Leo Panitch, pp. 251–88. Toronto: University of Toronto Press, 1977.

13: *The Future of Public Sector Industrial Relations*

MARK THOMPSON
and
GENE SWIMMER

MARK THOMPSON is Associate Professor, Faculty of Commerce and Business Administration at the University of British Columbia.

GENE SWIMMER is Associate Professor, School of Public Administration at Carleton University.

Contents

Introduction **441**
The Extent of Collective Bargaining **445**
Management Organization for Collective Bargaining **446**
The Impact of Public Sector Industrial Relations on the Labour Movement **449**
The Impact of Collective Bargaining on Compensation in the Public Sector **453**
Public Sector Strikes **457**
Dispute Settlement **460**
Conclusions **465**

The Future of Public Sector Industrial Relations

Introduction

Historians may one day regard the year 1982 as a watershed in Canadian public sector industrial relations. For the previous fifteen years, both employment and compensation in the public sector had grown. Legislatures had encouraged a shift to collective bargaining from more traditional modes of employee relations, which emphasized consultation between management and workers. The legal climate combined with a new militancy among many public sector workers so that unionism and collective bargaining spread rapidly in the public sector. In those areas where collective bargaining already existed, employee organizations displayed previously unknown levels of vitality.

This pattern was broken abruptly in 1982. First, the federal government imposed controls on wages and on collective bargaining by its own employees (the '6 and 5' program). Most provincial governments quickly adopted similar measures. The details of these policies varied considerably, but their thrust was the same for all jurisdictions. Through governmental fiat, or by means of procedures that largely bypassed the bargaining process, public sector employees were to receive wage increases that were less than the expected rate of inflation. At the same time, efforts were made to reduce the size of the public sector in absolute terms. Since the governments avoided sharp reductions in transfer or welfare payments, the impact of the cuts fell heavily on public sector employees (and, indirectly, on their clients). In some jurisdictions, the combination of these measures substantially undermined the job security of workers in the public sector.

The rationale for these actions rested on broad economic and political policies rather than on any reaction to labour relations. The conservative economic policies popular in the 1980s emphasized reduced government expenditures and the promotion of private investment as the primary means of dealing with a prolonged recession. Governments naturally chose to implement these policies in ways which caused them the least political damage. In times of high unemployment, it was relatively easy to place the burden of reduced government spending on public sector employees, who purportedly enjoy greater security of employment than their counterparts in the private sector. Moreover, the imposition of wage restraints by legislative action dramatized the governments' determination to limit their own deficits and reduce Canadian wage levels.

Although public sector employees bore much of the brunt of anti-inflation policies, the initial responses of their unions to these events were surprisingly moderate. The publicly stated positions of these organizations ranged from outright defiance to resigned acceptance of the need for restraint. But there was little direct action. Initially, a few unions openly discussed a national protest, perhaps modelled on the demonstration in 1976 which attacked the federal Anti-Inflation Program. But after public sector labour leaders consulted with other unions, most proposals for massive protests disappeared. Only in British Columbia were public sector unions able to generate massive protests against restraint. Elsewhere, although public sector employees threatened political or job action against governments, most discussions of such efforts were muted. During 1982 and 1983, a large-scale strike action was mounted in Quebec, with dubious results.

After observing labour's actions, one must conclude that the politicians were correct in their assessment of popular opinion. Public sector employees realized that they were unable to mount an effective protest against control, and that any response would have to await a change in the political or economic climate. However, the behaviour of governments and public sector unions during a period of economic expansion will be indicative of the nature of labour relations in the longer run.

Two hypotheses concerning the future of public sector industrial relations emerge from the events of 1982 and 1983. The so-called 'doomsday hypothesis' holds that governments will use the economic conditions of the early 1980s, which they have declared to be temporary, to justify long-term restrictions on collective bargaining.

In other words, workers in the public sector will lose many of the rights they gained in the 1960s and 1970s, in order that restrictions on wages and public spending can be continued. Alternatively, the optimistic hypothesis holds that the introduction of the restraint policies was caused by the existence of serious economic problems. Thus, the bargaining rights of public sector employees will be restored when the state of the economy permits, though not necessarily in the same favourable economic circumstances which prevailed in the previous decade.

Proponents of each hypothesis can cite data to support their position. In Chapter 12 of this volume, Leo Panitch and Don Swartz argue that the public sector restraint programs were part of a series of so-called 'temporary measures' which were adopted by governments in the previous decade. These actions restricted workers' rights in order to promote the interests of employers, and did so under the guise of protecting the public. Among the measures that Panitch and Swartz mention are numerous bills that were enacted to order strikers to return to work and various efforts to establish rigid formulae for determining public sector wages. To this list might be added the means by which governments chose to introduce restraints in 1982. As employers, public bodies had the option of limiting the wage increases of their employees at the bargaining table, much as private employers do when their incomes fall. Such a tactic would have preserved the practice of collective bargaining during the decline in public revenues. However, instead of adopting a hard line at the bargaining table, governments used the legislative tools at their disposal to achieve their objective, leaving their own negotiators only a minor role to play in labour relations for the duration of the restraint period. If governments continue to seek reductions in the size of their expenditures and in the level of services they provide, they may also continue to rely on legislative power to force their employees to accept the consequences of these policy decisions. Such policies would almost inevitably damage, if not destroy, collective bargaining in those elements of the public sector that are affected.

While the arguments advanced to support the doomsday hypothesis deserve careful attention, there is a considerable body of evidence to support the optimistic hypothesis. Even during the period in which public sector bargaining was expanding, there were attacks on the practice from several sources. Private sector employers not only complained about the cost of public services to the taxpayer, but were especially vehement when they believed that wages in the public sector exceeded those paid to employees in their sector. In addition, public reaction to strikes by public sector employees was almost uniformly negative. Periodically, governments and neutral observers suggested that public sector compensation be determined by direct linkage to the private sector, on the basis of parity between the two. In these circumstances, it would have been easy for most governments in Canada to restrict bargaining rights severely or not to grant them at all. But the federal government and a majority of provincial governments did give reasonably complete bargaining rights to public sector employees. Once the legislative framework was established, few changes were made in response to individual disputes. When a strike caused widespread inconvenience or threatened public safety (as with stoppages by municipal transit workers or hospital employees), *ad hoc* legislation was enacted. While the incidence of such events grew during the 1970s, the majority of all laws were enacted in Quebec and by the federal Parliament. Whatever the merits of this legislation, it did not change the fundamental structure of bargaining. Similarly, restrictions imposed on private sector bargaining by the federal government's Anti-Inflation Program of 1975-78 were only temporary.

In short, Canada's governments since the mid-1960s have supported the principle of collective bargaining, both by the extension of bargaining rights to public employees and by making only marginal changes in the permanent legal framework once legislation was enacted. Since there is little evidence that this long-term commitment changed in the early 1980s, the optimistic hypothesis is supported. In addition, most industrial relations practitioners share a commitment to public sector bargaining. Indeed, many employer representatives are privately opposed to the current restraint programs, and the thrust of labour's protests has been to eliminate the controls, not to protect their fundamental rights to bargain.

Many of the factors that will determine which scenario will prevail in public sector labour relations originate in the relevant political and economic climates. It is unusual, though not unknown, for public sector labour-relations issues to affect substantially an area's economy or politics. Thus, analysis of industrial relations alone is most helpful for prediction when one assumes that changes in the legal framework of bargaining will consist of refinements in the existing system, rather than efforts to undermine the regime of bargaining. Most of the chapters in this volume implicitly accept that recent changes are temporary, and that they are an excellent basis for prediction with regard to several issues if the doomsday hypothesis is incorrect. Should the freedoms enjoyed by labour in the 1960s and 1970s be further restrained in the 1980s, dramatically different results would follow. The remainder of this chapter examines the future of public sector labour relations in light of the other chapters in this volume and then concludes with a brief set of predictions based on the doomsday hypothesis.

The Extent of Collective Bargaining

The remarkable growth in public sector collective bargaining in the 1960s and 1970s is now well known. But disaggregated data on the contemporary extent of collective bargaining are fragmentary and not readily available. A convenient proxy, however, is public sector union membership, although early data must be analysed carefully. Collective bargaining has been established longest for employees of large municipalities. At other levels of government and in the public sector, existing employee associations usually became trade unions in fact, if not always in name, in the 1960s and 1970s. Where the conversion process was gradual, decisions to describe a relationship as involving collective bargaining or another form of consultation could be arbitrary, thereby affecting membership figures.

In Chapter 3, Joseph Rose examines trends in these data and concludes that possibilities for future public sector union growth are slight. The same conclusion holds for collective bargaining. By 1982, almost all large elements of the public sector were engaged in some form of collective bargaining. It is, therefore, difficult to forecast additional growth either in bargaining within the public sector union membership or in coverage by collective bargaining. On the contrary, reductions in the size of government would cause a decline in public sector union membership. But barring a major reversal in legislative policy limiting bargaining, this form will remain as the preferred method by which wages and conditions of employment will be determined in the public sector; while some public sector employees were hesitant about collective bargaining when it was first introduced, they now appear to prefer that system to any other.

The only significant source of growth for public sector collective bargaining might be further extension of the public sector itself, most probably through government take-overs of failing businesses in the private sector. Many potential candidates for such action are already unionized, but experience in the Western provinces with government-owned insurance companies indicates that even in industries where private sector unionism is weak, employees opt for collective bargaining when they enter the public sector.

Management Organization for Collective Bargaining

When collective bargaining arrived in the public sector, managerial authority underwent profound changes. Decisions once made unilaterally, perhaps after consultation with employee representatives, became subject to formal negotiations. To deal with bargaining, public sector employers recruited staff and established new structures. The arrangements for bargaining usually (and wisely) excluded politicians from direct participation in the process of negotiation. Instead, the federal and provincial governments normally designated treasury boards as their representatives at the bargaining table. Smaller agencies, such as school districts or hospitals, tended to rely heavily on professional negotiators, although elected board members also participated. Since the results of bargaining can have profound effects on government budgets and may also affect the nature of the services provided, political leaders want to integrate the outcome of negotiations with other government policies. Yet, sound bargaining practice and political common sense dictate that elected officials remain aloof from negotiations. As public sector managers quickly learned, collective bargaining is a fluid process, the outcome of which may be difficult to predict. Political leaders thus found their plans and priorities put at risk by a process which was both removed from them and little understood.

The designation of treasury boards to deal with public servants was an appropriate technique for maintaining centralized control over bargaining. However, when agencies such as hospitals or schools negotiate, the management problems are more complex, for while their elected trustees usually prefer to maintain control over labour relations, their agencies depend on higher levels of government for most of their budgets. If governments monitor bargaining closely, then the authority of negotiators who legally represent the employer is diluted, and negotiations may atrophy as unions attempt to reach the ultimate source of authority in order to conclude an agreement. However, if governments are not involved in negotiations, they may lose control over settlements which have a significant impact on their budgets.

The resolutions of these structural difficulties have pleased no one. Criticisms of public sector compensation levels (discussed below) imply that governments have been unable to control their own negotiators. Yet the federal Anti-Inflation Program of 1975, which received extensive criticism, was, above all, an attempt to restrain increases in public sector wages, especially at the provincial and local levels. The imposition of controls by fiat in 1982 also displayed politicians' lack of confidence in the capacity of management negotiators to restrain expenditures. Indeed, during periods of reductions in government spending, finance ministers (or treasury boards) may declare limits in spending before negotiations begin, thus placing in question the validity of the bargaining process. Other difficulties have also plagued negotiations. Union officials frequently complain that they are forced to deal with negotiators who lack the authority to conclude agreements. The need for frequent communication between the negotiators and their principals delays settlement and antagonizes union representatives and union members. Treasury Board negotiators normally come to the bargaining table with a 'mandate', that is, a statement of the limits of their authority to sign an agreement. The process by which mandates are established is unclear, but experienced negotiators from both sides report that when negotiations actually begin, mandates are frequently out of date, in terms of the economic and labour-relations realities.

Two chapters in this volume illustrate some of the various forms of managerial organization for collective bargaining, and the difficulties they have encountered. At one extreme is the experience of Quebec. As the provincial government increased its involvement in education, health and the economic life of the province, it also centralized the bargaining structure for employees in all parts of the public sector. The result is, in effect, that all of the employees that were paid from the provincial treasury became subject to a common set of negotiations. Gérard Hébert, in Chapter 7, terms this system 'hypercentralization'. In his opinion, the centralized structure caused the demise of collective bargaining, as the term is understood in industrial relations. Decisions normally within the scope of collective bargaining became subject to the vagaries of the political process. Initially, the results of this process seemed highly favourable for the employees, who received virtually all of their major demands, albeit with some delay. In the highly charged political climate of Quebec, the determination of how public sector employees would be treated has been a major policy decision for the provincial government. Despite these generous settlements, the incidence of public sector strikes in Quebec is unmatched elsewhere in the nation, a topic which is discussed by Douglas Smith in Chapter 6, and which is also discussed later in this chapter. In short, the bargaining structure in Quebec has inserted the government directly into the negotiation process, which covers a significant proportion of the provincial budget and the expenditures of major Crown corporations.

Given the importance of the results of bargaining, it was perhaps inevitable that public sector collective bargaining would be placed squarely in the political arena. Both parties operate on that level: unions express their demands and priorities through demonstrations and public displays of militancy, and the employer, represented by the Minister of Finance, first declared the permissible level of settlements in advance of the start of negotiations. In addition, in 1982 the government unilaterally rolled back wages by almost 20 per cent, thereby repudiating collective agreements signed by its own negotiators during the previous round of bargaining.

The differing degrees of government involvement in the process of collective bargaining in western Canada are illustrated by Kurt Wetzel and Daniel Gallagher in Chapter 8. Each of the three provinces examined exhibits a different pattern of government involvement in the hospital industry. The province in which the system is superficially most similar to that of Quebec is Saskatchewan, where the government is represented directly in negotiations. But direct representation does not imply domination. Instead, the Saskatchewan government seems determined to preserve a high degree of local autonomy for hospital boards; thus it avoids the imposition of its views on the parties, preferring to use less coercive tactics to obtain its objectives. In British Columbia, government policy has shaped the structure of bargaining, but there is no official presence in bargaining, even indirectly through frequent consultation with the association representing the province's hospitals, as occurs in Saskatchewan. At the other end of the spectrum, the Alberta government has neither determined the structure of bargaining for hospitals, nor does it participate in negotiations.

The data on management organization that are presented in these two chapters are insufficient to permit confident generalizations, but tentative predictions are possible. First, it seems likely that neither the centralized system of Quebec nor the 'hands off' policy of Alberta will prevail elsewhere in the country. The Quebec experience appears to derive from that province's political culture and from the role that public agencies played in both the Quiet Revolution and its aftermath. The ultimate accountability of centralized bargaining makes it unattractive to all politicians. In addition, Alberta's experience surely was conditioned by the relative affluence that its public sector enjoyed through the early 1980s. Moreover, since the writing of the chapter by Wetzel and Gallagher, the Alberta government has imposed new restrictions on the right of hospital workers to strike and on the discretion of arbitrators to determine salaries.

In British Columbia, the government originally did not play a direct role in bargaining. Yet this situation began to change in the 1970s, when, on one occasion, the Premier was reported to be shocked to learn of a generous settlement with the nurses' union. No major negotiations in the health-care sector occurred between that agreement and the imposition of the wage-restraint program; thus there was no evidence of government plans for participation in future rounds of bargaining. However, a new president of the hospital employers' association, a person with considerable experience in public sector negotiations in the province, was selected, and a senior official from the Premier's office effectively took over as the chief employer-representative in the final stages of the 1982 negotiations for the public service. Thus, more systematic involvement by the British Columbia government seems likely in the future.

As Wetzel and Gallagher conclude, the Saskatchewan model is probably the best. Its virtue is that government is kept fully informed of the course of negotiations, and if senior government officials have confidence in their representative, the government is kept aware of the size of the offer which would secure agreement from the unions. The problems of the remoteness and rigidity of the treasury board-mandate system are avoided, while a degree of control over expenditures is preserved. However, this type of arrangement may be possible only in a jurisdiction which has standard working conditions and relatively few bargaining units. Where employer associations are well established, as in British Columbia, government domination may be unacceptable to management.

One consequence of restraint policies has been centralization of the employer's authority in political bodies, either by establishing a wage-control agency or by imposing strict limits in advance of bargaining. But such measures may cause the politicization of industrial relations, and this, as Quebec experiences, is not a desirable consequence for government.

The Impact of Public Sector Industrial Relations on the Labour Movement

As Joseph Rose documents in Chapter 3, most of the growth in Canadian union membership in the 1970s occurred in the public sector. In many respects, this growth was beneficial for the labour movement. The Canadian Labour Congress (CLC), its provincial federations, and the Confederation of National Trade Unions (CNTU) supported the extension of bargaining rights to public employees and welcomed affiliation by public sector unions. But public displays of labour solidarity did not conceal signs of tensions within labour organizations and among unions. A number of indicators of these tensions can be identified.

Many small public sector unions never joined the mainstream of the labour movement. In general, unions which represent professionals have remained independent of either the CLC or the CNTU. A number of unions of paraprofessionals and blue-collar workers are also unaffiliated. The pressures of competitive product markets or common employers, which strengthen national ties in the private sector, do not operate as well in the public sector. Indeed, these divisions have made inter-union co-operation in bargaining or political action difficult, though not impossible. Such tensions are complicated by the fact that professionals in the public sector are, in general, less militant than other union members; they feel a limited community of interests with blue-collar workers, and they prefer to be aloof from the more strident style of most Canadian unions. Since other unions regard these attitudes as élitist, there have been few efforts to incorporate all unions into common centrals. From time to time, however, predominantly blue-collar unions have attempted to organize professional or white-collar workers, but such attempts only exacerbated further the differences between independent and affiliated unions.

Within the CLC, public sector unions themselves have been a source of tension. Several unions, in particular the Canadian Union of Public Employees (CUPE) and the Canadian Union of Postal Workers (CUPW), form separate locals for each major work site or bargaining unit. By contrast, many private sector unions, notably those in the construction industry, have locals whose jurisdictions cover a relatively large geographic area, occasionally even an entire province. Since the CLC's constitution provides that each local of an affiliated union may send a delegate to its biennial convention, public sector unions tend to be overrepresented in the Congress' conventions, relative to their membership strength. As James Thwaites explains in Chapter 4, the building-trades unions sought for a number of years to achieve constitutional reform in order to give greater representation to affiliated unions, as opposed to locals, in the CLC. The failure of these efforts was partly responsible for the construction unions' decision to withhold dues from the CLC, which, in turn, led to their suspension in 1982.

The elimination of the building-trades unions and the decline of employment in Canadian manufacturing in the early 1980s caused a fundamental shift in the CLC. Public sector unionists may have constituted as much as 40 per cent of the central's total membership by 1982, and their delegate strength could dominate future conventions. However, since public sector unions are no more homogeneous than the rest of the Canadian labour movement, their influence may be dissipated.

The battle over representation that was waged between the construction unions and several public sector unions was symptomatic of more fundamental divisions in the labour movement. Had the protagonists in the debate shared a common philosophy of unionism, disagreement over voting strength would have been a manageable issue. While Canadian unions from both sectors cover a wide ideological spectrum, the construction unions tend to occupy the conservative end of that spectrum, while several public sector organizations, especially those representing blue-collar workers, are on the political left. Leaders from the latter groups freely attack the Canadian economic system and call for greater government control of industry in strident terms which private sector unionists find objectionable. In their personal capacities, many leaders from manufacturing or construction unions hold little respect for public sector labour organizations, which they see as having benefited from the efforts of older unions without having made the same sacrifices to obtain their objectives. Attacks on private ownership from public employees seem self-serving and insensitive to mature bargaining relationships in the private sector. More conservative public sector unionists have similar reservations about the political positions of the left, without necessarily accepting the criticisms of their own development.

One example of the interplay of these factors in the CLC was the 1980 postal dispute. When the federal government passed legislation to change the bargaining framework by banning a strike, Dennis McDermott, president of the CLC, opposed any action on the part of the labour movement to defy the law. This enraged the union affected, CUPW, but probably reflected the attitudes of most private sector union members, who were as weary of postal strikes as were other Canadians. When McDermott and CUPW put their differences aside, the president of another public sector union acted as the intermediary between them.

There is also a regional or language element to the ideological division. Several unions of federal employees have elected militant leaders from Quebec. When seeking national office, Quebec union leaders have been able to build on an electoral base of francophones and have gathered additional votes from other regions with a platform of stronger action at the bargaining table. After their election to national leadership, these officers have brought to the rest of Canada some of the style of Quebec labour relations. Politically, labour leaders in Quebec tend to be to the left of other Canadian unions; in addition, they tend to be more involved in the central political issues of the day, and to use harsher language in condemning management and governments than is common in other provinces. In Chapter 7, Gérard Hébert demonstrates the process by which public sector labour relations in Quebec have become politicized, an issue discussed above in this chapter. The differences between Quebec and other provinces in the substance of industrial relations are not clearly identifiable, but the form and rhetoric of Quebec seem foreign to many anglophone unionists. This cultural difference has contributed to the tensions between public and private sector unionists.

Tensions obviously do not exist at the federal level only. As James Thwaites points out in Chapter 4, they are very real at the provincial level, as well, specifically, in Quebec. For instance, a number of private sector unions left the *Confédération des syndicats nationaux* (CSN) in the aftermath of the 1973 Common Front to form the *Central des syndicats démocratiques* (CSD). In addition, events in the Quebec construction industry were an important factor in the decision of the building trades to withdraw from the CLC. But Professor Thwaites also shows that the causes of schisms in the labour movement are subtle and complex. He argues convincingly that the public/private sector distinction is not the sole cause of divisions, although it does contribute to them. The formation of the CSD illustrates the structural changes that these divisions can cause.

Looking to the future, it is difficult to predict that there will be greater unity in the Canadian labour movement, and it seems that the numerical importance of public sector unions will maintain existing tensions. Ironically, however, the events of the early 1980s could contribute to greater unity. The worst recession in two generations has left unions with little sympathy for internecine battles. In addition, attacks on the bargaining rights of public sector workers by conservative governments may be seen by private sector unionists as part of a broader campaign against workers' rights, and thus may bring the two groups together. Certainly, the 1983 restraint legislation in British Columbia caused labour to unite as never before in the province's history. But overlapping jurisdictions are common in many industries, so the possibilities of raiding are great. If the large public sector unions are successful in pushing the CLC further to the left, then some conservative or moderate unions in the manufacturing and service industries may affiliate with the construction unions in the Canadian Federation of Labour (CFL), which is avowedly apolitical. Thwaites' conclusions regarding the future of labour relations in Quebec are likely to hold true elsewhere. That is, the public/private sector difference will not cause new divisions, but it will contribute to those that already exist and will play upon the differences in ideology, style and perspective that already characterize the Canadian labour movement. The continuation and deepening of these divisions make the affiliation of professionals to major federations highly unlikely. Since many small public sector unions are essentially provincial and deal with only one employer or a small number of employers, the chances that pressures for unity will be based on economies of scale are slight.

The Impact of Collective Bargaining on Compensation in the Public Sector

Few issues have aroused greater concern among private sector employers and workers or the general public than the levels of compensation in the public sector. The spread of collective bargaining in the public sector occurred during a period of growth in employment and conscious efforts by government to upgrade the quality of their staffs. At the same time, government funding was extended to the health and welfare services, many of which had traditionally been areas of low-wage employment. Typically, workers in these industries unionized and secured generous wage increases which brought their levels of compensation close to the norms for similar work in public agencies. As a result of these activities, compensation in the public sector rose sharply, often at rates exceeding those in the private sector. By the late 1970s, however, complaints from private sector employers to the effect that compensation in the public sector exceeded their own ability to pay grew more common. As public employees completed their phase of 'catching up' with the private sector, sentiment in favour of a continued increase in wages rapidly diminished. However, the discussion of compensation has not produced any consensus as to the appropriate relationship between levels of pay in the two sectors.

The general logic of the complaints voiced by private sector employers is appealing. Since government can always raise more revenues by taxation (or deficit financing), it can afford to pay its employees generously. By contrast, private employers, constrained by the market, lack that freedom, yet they produce the wealth on which government relies. It is unreasonable, therefore, for public agencies to raise wage costs for the private sector, as they do when they increase their own compensation levels. The private sector has gathered widespread support for this argument, but it has failed to produce a convincing policy recommendation for public sector compensation.

Vague statements have been made to the effect that government should be a 'good' employer, while not leading the private sector in its level of compensation. Unfortunately, such exhortations provide little guidance to anyone involved in public sector labour relations. For instance, how does one define a 'good' employer? Given that industrial factors may create different pay rates for similar jobs, where along the distribution from the highest to the lowest rate should the public employer fall? What should be the geographic definition of a labour market? If the federal government is a good employer in Ontario, might it not simultaneously be an excellent one in Newfoundland? How should it reconcile these regional differentials with goals of a national public service and the movement of staff among regions? In order to be a good employer, must government replicate the private sector in all elements of compensation at all times? If private employers discriminate against women, must government follow suit? It is acknowledged that government led the private sector in providing fringe benefits long before the advent of collective bargaining; should similar developments in the future, such as affirmative action programs for women and minorities, be restricted? If government is to follow, what is the appropriate interval between the acceptance of a condition by so-called 'good' employers in the private sector and its adoption in the public sector?

In their public statements, public sector unionists do not accept that there should necessarily be any link between public and private sector compensation. They state only that if there is a relationship, government should lead the private sector. When their members receive lower pay than workers in the private sector, public sector unions eagerly argue for comparable treatment. When their members are ahead of any significant elements in the private sector, they point to the social utility of the work their members perform. Public sector unions urge their employers to show leadership in raising compensation levels, but resist any efforts by government to exercise leadership in the community in restraining wages. It is scarcely surprising that partisans in such a debate provide little basis for analysis of the problems they raise. However, they have identified issues of considerable importance to public policy and our understanding of public sector industrial relations. Two chapters in this work are especially useful for providing an understanding of the problems of compensation.

In Chapter 1, Morley Gunderson thoroughly reviews the existing data on comparisons between public and private sector compensation. The results of his work are relatively straightforward. Public sector compensation exceeds that of the private sector in lower-paid jobs, especially in positions traditionally held by females, and falls behind in high-level and executive jobs. Although the public sector wage advantage emerged when public sector unionism was expanding, the gap appeared to be dissipating in the early 1980s. In general, the degree of the differences between the two sectors is in the order of 5 to 10 per cent, about the same as the figures shown for public sector unions in American studies. Thus, one interpretation of Gunderson's paper is that most of the public/private sector pay differential results from the higher rate of unionization and the lower incidence of discrimination against women in the public sector. It can also be regarded as a small price to pay public employees in return for the removal of many management rights from the bargaining table by means of legislation. These rights pertain to such matters as promotions and lay-offs, pensions, job classification and the introduction of technological change.

Gunderson's review of the data on relative compensation, like much of the debate on the issue, rests on some notion of comparability. For many years, the assumption was made that public sector compensation should be on a par with that in the private sector, a situation which seemed inherently fair, and which reflected the need for an expanding public sector to recruit or retain able staff. In 1982, however, the concept came under attack from several sources. The public sector wage restraints were imposed, sacrificing principles of comparability in favour of reductions in government spending. When the public sector shrinks, pressures on employers to maintain comparable wages also diminish. In times of high unemployment, the assertion that government jobs are more secure than the private sector is used to justify relative reductions in public sector wages. Nevertheless, such differences in job security have never been proved empirically. Nor has any serious effort been made to relate such differences, assuming they exist, to other forms of compensation so that assertions that public employees are immune from lay-offs can be used without fear of contradiction. Moreover, these issues do not touch on the problems of applying the principle of comparability, problems which are becoming more widely appreciated and which are discussed below.

The second chapter in this work which is useful for an understanding of compensation problems is Chapter 2, by E.G. Fisher. He examines a special problem of comparability: wage differentials for police forces and fire-fighters. Although the unions, especially those of the fire-fighters, have attempted to maintain parity between the two groups, Fisher found that no consistent relationship exists. Instead, provincial patterns tend to dominate wage determination. These results have been achieved most often at the bargaining table, despite the availability of arbitration to these groups in most jurisdictions.

Taken together, these two chapters provide the basis for prediction both about developments in public sector industrial relations and about perceptions of the labour-relations process that is involved. Most of Gunderson's material covers the period ending in the late 1970s. In a few cases, he was able to extend data series used in his own earlier work, and these confirm that the period in which the public sector had the greatest advantage occurred shortly before 1980. Looking ahead at the remainder of this decade, one sees little evidence to suggest that there will be major changes in the relative position of employees in the two sectors. Government employment is likely either to remain stable or to fall during that period. The 1982 round of wage-control programs will restrain public sector compensation even if the economy revives sufficiently to permit more generous increases in the private sector. On the other hand, Gunderson and others have found that public sector wages are less responsive to economic conditions than those in the private sector. Public sector unions will find it politically difficult to accept wage settlements below the figures in the relevant control programs; thus, if the economic slump persists through 1983 and 1984, their levels of pay might increase even more rapidly than those of private sector workers. In any case, the change in relative positions should not be great for most groups of employees, given the low rate of settlements for the economy as a whole.

Under these conditions, established compensation patterns should break down. Different government policies on spending and compensation will diminish the value of comparisons between public sector groups in separate jurisdictions or parts of the public sector. If compensation is restrained, the parties may turn their attention to non-pay issues, even where the law restricts the scope of bargaining. Comparability as a criterion in bargaining implies that neither party will exercise its full economic power for a short-run tactical advantage. If comparability becomes a less important criterion, the implicit restraint on the parties' behaviour will also diminish. Employers will reduce public sector wages below private sector levels when their bargaining strength permits, while unions will take the same liberties if they are able. All of these factors point to greater dispersion in compensation within the public sector and to more numerous opportunities for labour conflict to occur.

Public Sector Strikes

Undoubtedly, the most emotional aspect of public sector industrial relations is the possibility of strikes by public employees. When the extension of bargaining rights to the public sector was first discussed, the very propriety of stoppages by public employees was debated. The well-known remark by Quebec Premier Jean Lesage, "*La reine ne négocie pas*" ("The Queen does not bargain."), was repeated to emphasize that a sovereign government should not be subjected to economic pressures from its own employees. While this argument is still raised by opponents of the original decision to introduce collective bargaining, it is no longer the focus of serious debate on public sector strikes. The experience of the 1970s demonstrated that governments could bargain with their employees under the threat of a strike without losing authority. But politicians, the parties included in labour relations, and the general public still have concerns about the place of strikes in a public sector industrial relations system.

The focus of the current debate is the extent to which the public should be subjected to inconvenience or danger as a result of stoppages by public sector unions. Experience with such strikes has demonstrated that their impact is less than was expected. The ingenuity of those affected and the resilience of the market economy have enabled society to cope effectively, if not happily, with a temporary interruption of services. After some experience with stoppages, public sector managers have discovered the advantages that strikes hold for some operations, especially public administration. Specifically, revenues continue to accumulate, while the largest single cost — the employees' wages — is virtually eliminated. Public employers thus have a strong position in bargaining. Nevertheless, many public sector strikes do entail economic costs, which, while often hidden and widely scattered, are real and disproportionally felt by small businesses. Perhaps of greater concern are the noneconomic impacts of strikes, especially in the areas of education, health and public safety. The disruption of family routines that is caused by strikes in schools and the stress arising from the disruption of hospital services are serious and command the attention of all concerned. In addition, strikes by police or fire-fighters can be catastrophic.

By any measure, strikes in the public sector have not been numerous. The federal public service, which was a leader in adopting collective bargaining, has, with the exception of the Post Office, been especially peaceful. While the postal workers were part of the federal public service, only one of the several postal unions, CUPW, has struck more than once. As Douglas Smith's data show in Chapter 6, public sector strikes have occurred most frequently in Quebec. Elsewhere in the public sector, strikes have occurred among blue-collar workers in quasi-industrial work settings, and have involved liquor-board employees, tradesmen, and aircraft-maintenance personnel.

In Chapter 5, Gene Swimmer focuses his investigation on the stereotypical public servant, the clerical worker. As Smith's data indicate, these workers have seldom gone on strike. Traditionally, it has been thought that their relatively good working conditions, their proximity to management, and their gender (usually female) have inhibited militancy. However, the role of each of these conditions in relationship to strike activity is now subject to question. First, the introduction of microelectronics into the office may bring about the closer regulation of clerical work. Secondly, the large size of many public service organizations, combined with the advent of collective bargaining and its centralizing tendencies, means that managers with whom clerical employees work may lack authority in employee relations. Finally, the changing roles of women in contemporary society may translate into a greater degree of militancy among female clerical workers. When a large number of clerical workers in the federal service (the 'CR' group) went on strike in 1980, many observers regarded this event as a harbinger of the future of labour relations in public administrations.

Some insight into the future of public sector strikes is afforded by Smith's examination of the macroeconomic variables of strike activity. Although he finds that the rate of unemployment influences strikes less in the public than in the private sector, inflation is the most important single variable with which to explain the incidence of strikes in both sectors. If the current deflationary policies of government are successful, it appears likely that there will be a reduction in the number of public sector strikes. If the conversion of the Post Office to a Crown corporation reduces the level of conflict there, then both the number of strikes and the amount of time lost should decline. Another major phenomenon that remains unexplained is clearly the frequency of strikes in Quebec. Strikes in that province account for approximately half of all the time lost as a result of public sector stoppages, and Quebec's bargaining structure almost guarantees that very large strikes will occur on occasion. In 1982 the Parti québécois (PQ) government adopted a harder line in dealing with public sector unions, which was accepted after widespread, but short-lived, strikes. If this policy does not backfire for the PQ in the next election, then a reduction in public sector strikes could also occur. But, as Hébert points out, no Quebec government has survived more than two rounds of public sector bargaining. The only ominous aspect of Smith's results is a significant upward trend in public sector strike frequency. Whether this trend reflects an increase in union militancy or a greater employer willingness to accept strikes is not clear. Finally, since the control programs in several jurisdictions flatly prohibit strikes, these measures should have some impact for the duration of such legislation.

But these factors do not touch on the relationship within the work place, as do Professor Swimmer's data. His conclusions seem to reflect his subjects' ambivalence and uncertainty about resorting to strikes. It does not appear that the CR strike in 1980 marked a pronounced shift in the attitude of clerical workers, but the realization that clerical jobs are as 'dead end' as blue-collar jobs continues to spread and may make such workers more willing to strike. In addition, technological change, in the form of microelectronics, threatens for the first time to affect office work seriously. This factor may also contribute to greater militancy.

On balance, the extent of public sector strikes should depend on how unions react to the new environment in which they find themselves. Government will, no doubt, try to restrain the public sector even in the face of a strong economic recovery or a return to double-digit inflation. If the unions of public sector employees are able to harness the increasing job frustration of their membership, the frequency and duration of strikes in that sector will increase (or, at the least, remain stable) over the coming decade. If not, the number of work stoppages will decline dramatically. In view of this, the 1980s could turn out to be as crucial a period for public sector unions as the 1930s were for their private sector counterparts.

Dispute Settlement

Concern about the impact of strikes in the public sector caused a variety of measures to be adopted which substitute for work stoppages or diminish their effects. Indeed, Canada has led all other nations in experimenting with mechanisms for resolving public sector labour disputes. While the period of experimentation is by no means over, patterns of behaviour which have predictive value have emerged. Most of the attention has been directed at the settlement of interest disputes (that is, disputes arising from the renegotiation of a collective agreement), but the public sector has experienced at least procedural innovation in the settlement of rights disputes (conflicts which arise during the term of a collective agreement). At present, four categories of settlement mechanisms for interest disputes exist.

The first of the settlement mechanisms, and the earliest substitute for strikes, was compulsory arbitration, which provides for a binding, third-party decision when the disputing parties are unable to agree on the terms of a contract. (A variation of this method, which received wide attention in the 1970s, was final-offer selection, by which each party submits a final offer to be either selected or rejected. Although this system was both debated and praised, it was seldom used.) Such mechanisms have traditionally been anathema to organized labour, which regards the right of workers to strike as fundamental to a free society. Thus, when compulsory arbitration was adopted, it occurred either despite labour's resistance or because the labour organizations affected were independent of the trade-union movement and did not object.

Less-partisan sources also voiced objections to compulsory arbitration. Stated in the simplest terms, there was concern that the parties would come to rely on the neutral third party to resolve their disputes, and that bargaining would atrophy. The temptation to rely on arbitration resulted from the premise that even a brief strike represented a bigger sacrifice than the most expensive or cumbersome arbitration proceeding. Since even arbitrators will admit that third-party decisions are a poor substitute for joint determination by the parties involved, there was a genuine fear that both parties would forfeit the benefits of collective bargaining by relying excessively on arbitration. After experience with hundreds of negotiations under several systems of compulsory arbitration, both concerns have largely been laid to rest. Unions representing white-collar employees in the public sector have grown accustomed to compulsory arbitration, and many appear to prefer that option to striking when an impasse is reached. By contrast, blue-collar workers still usually opt for the right to strike, when they are given the opportunity. When they have no choice, they have come to accept compulsory arbitration as a useful mechanism. Unions whose members are, in practice, unable to strike because of the impact of stoppages on public safety or welfare normally are accepting of their situation in private (though seldom in any public declaration) and have become adept at using arbitration to achieve negotiating objectives.

Employers also seem to be having a change of heart with regard to the various settlement mechanisms. Organizations representing employers in education and in municipalities have occasionally been opposed to granting their employees the right to invoke arbitration and have, instead, supported bargaining under provincial labour codes. A number of reasons may explain this shift. First, as mentioned above, strikes by some categories of government employees are difficult for labour to win, since the employer actually gains financially during a stoppage. Secondly, many public employers have concluded, rightly or not, that arbitrators have been excessively generous in their awards, particularly when economic conditions had put unions in a particularly weak bargaining position. Finally, while unions must normally bear the political responsibility for strikes, employers have to meet the terms of the arbitration awards and, with them, the possibility of changes in budgets, tax rates, and so forth.

Apart from the preferences of the parties, it is now fairly clear that collective bargaining and compulsory arbitration can co-exist. While the incidence of arbitration may rise after the introduction of bargaining, the trend is not steady or irreversible. In other words, after experience with both procedures, the parties seem to find arbitration an unattractive alternative to settlement. In Chapter 9, Kenneth Swan illustrates some of the reasons for the parties' dislike of arbitration. The issue most commonly subject to arbitration in the public sector is wages. But Swan argues, from the perspective of a neutral party, that a quasi-judicial process is simply inadequate to determine such a complex issue. Efforts to structure arbitration by inserting legislative criteria to guide the decision seem destined to fail, and there are great practical difficulties in applying either a general criterion, such as comparability, or a system of job evaluation to relate dissimilar jobs.

The second settlement mechanism for interest disputes was included in the Public Sector Staff Relations Act (PSSRA) when it introduced collective bargaining to the federal public service in 1967. An alternative to arbitration, which later became known as 'choice of procedures', gave unions representing particular bargaining units the right to elect, before beginning negotiations, whether the dispute would end with the parties resorting to the right to strike or to arbitration. This rather ingenious compromise between completely free bargaining and the traditional form of compulsory arbitration has attracted considerable attention from practitioners and scholars. Variations of this system have been adopted elsewhere, principally for public safety employees. In the federal public service, most unions began by choosing the arbitration route, but gradually shifted to the other alternative. Their choices, however, were not irreversible. In fact, a number of unions have changed their position several times. Again, the accumulated evidence indicates that unions will act pragmatically under such a system. The secular trend away from arbitration under the PSSRA seems more the result of constraints placed on arbitrators under that Act than of any general increase in militancy of pro-strike sentiments among federal workers.

The third option to a so-called 'normal' strike is a partial strike, during which some fraction of the bargaining unit must work in order to maintain essential services. Several jurisdictions provide for such a mechanism, though not always explicitly. In British Columbia, strikes affecting public safety or well-being can be conducted under the supervision of the Labour Relations Board, which ensures that essential services are maintained. Under the PSSRA, the employer may designate as essential those employees in any bargaining unit who are required to maintain public safety and security; these employees must then remain at work while their colleagues are on strike. The difficulty with this type of system is obvious. If the definition of essential services is too broad, then the union will no longer be able to exert enough pressure on the employer to have any hope of winning a strike. Alternatively, an extremely narrow definition of essential services may create the illusion that a strike will have little impact on third parties. Should this view be incorrect, the parties risk having their dispute ended by legislation or by some other higher authority.

Experience with partial strikes is still quite limited. In British Columbia, two such stoppages occurred in the health sector, with generally positive results. In the federal jurisdiction, there is some evidence that the employer has purposely 'over-designated' bargaining units. Unions have been faced with either accepting the designation list or delaying the entire conciliation-strike process until the Public Service Staff Relations Board made a binding determination. A 1982 decision of the Supreme Court of Canada extended management's unilateral powers to designate essential employees. If the Treasury Board uses its powers aggressively, the impact of public sector strikes could be reduced substantially in the post-controls period.

The fourth settlement technique actually combines elements of the first three, under the administration of an essential services-disputes agency. This body has the authority to intervene in labour disputes which affect the public interest in an especially serious way, and to apply one or more techniques of settlement, using the methods most appropriate to any individual dispute. Two such agencies have been established in recent years. One body, in British Columbia, came into being through legislation hastily enacted over the protests of the labour movement. Not surprisingly, it has never really functioned. The other example, the Education Relations Committee (ERC), is the result of more careful planning and consultation; it covers public school teachers in Ontario. Chapter 11 of this volume, by Bryan Downie, is the first published account of the agency's efforts. In general, the ERC has worked well. After seven years and 1002 sets of negotiations, there have been only twenty-nine strikes, in the usual sense of the term. There is no consistent pattern of increasing reliance on third-party intervention in disputes, and an early tendency towards more outside involvement was reversed in the last two rounds of bargaining reported. Finally, the parties involved and a government-appointed commission of enquiry all expressed satisfaction with the system of industrial relations which evolved under the Act.

Experience under the Ontario legislation may be too narrow to permit meaningful generalization, but these data support the establishment of essential services-disputes agencies. Moreover, a number of prominent neutrals and industrial relations scholars have already recommended that such bodies be established. Thus, any government that carefully examines the issue of essential services disputes is likely to be advised to set up such an agency. But the British Columbia history is also noteworthy, since it reveals that regulatory bodies in labour relations can only function with the parties' support. A minimum requirement for securing support is full consultation. In addition, the jurisdiction of an agency must be carefully set out and reasonably restricted so that the broad range of private sector unions, whose experience and principles direct them to avoid third-party intervention, are not likely to be affected. Public sector unions which are not members of provincial labour federations will not be affected by boycotts of such legislation, nor will federations take the same interest in measures which do not affect their members as they would in measures that have a wider application.

The close scrutiny of interest disputes and their settlement has not been matched in respect of rights disputes. Although no comparative data are available, it appears that the public sector produces more grievances and at least as many arbitrations per capita as does the private sector. The issues underlying these cases are usually the same in both sectors, and include discipline, pay entitlement and review of probationary status. But with very little discussion or attention, several governments have established separate tribunals or procedures for the selection of arbitrators in the public sector. In Chapter 10, Katherine Swinton, writing as both a scholar and a participant, examines for the first time some of the jurisprudential questions arising from these systems.

Swinton's review of the jurisprudence of public sector grievance arbitration reveals many of the underlying features of industrial relations in that sector. The private sector model has a powerful influence on the parties, but the practice which was standard in the era before the introduction of collective bargaining remains a significant factor in the resolution of rights disputes. Legislation limits the authority of arbitrators in ways that are unknown in the private sector. These limitations may operate to restrict or expand the rights of employees, depending on the issue and the jurisdiction. The role of protective legislation appears more important in the public than the private sector, although the increase in the legislation regulating safety and health, as well as discrimination, may be changing that balance in the private sector. Overall, the trend in public sector employment is towards greater similarity to the private sector in terms of pay levels, working conditions and legislative treatment. The rationale for the existence of separate tribunals to adjudicate grievances in the public sector has never been well established. Because the employer generally pays the entire cost of these tribunals, there is also a temptation for unions to press all grievances to arbitration, thereby making these bodies more expensive or less expeditious than the conventional *ad hoc* boards employed in the private sector. For these reasons, it seems unlikely that separate boards will be an important element of public sector labour relations, although grievance arbitration in the public sector will almost certainly be governed by a distinctive legal regime.

There are obvious differences between the objectives of public and private sector operations: for example, the objectives of the public sector include the maintenance of a merit system, the need to ensure that persons in all regions of the jurisdiction have access to public sector jobs, and the desire of governments to retain the freedom to determine the level of public services. Moreover, governments will wish to retain some control over the general conditions under which public services operate. Therefore, the jurisprudential issues which Swinton identifies are likely to continue to vex the parties and neutrals involved, whether they are decided by special tribunals or by *ad hoc* arbitation boards.

Conclusions

If the optimistic hypothesis mentioned at the beginning of this chapter is realized, then the institutions of public sector industrial relations will be seen as being sufficiently developed to respond successfully to incremental changes in their environment. Most of the early fears about the effects of collective bargaining in the public sector have proved to be unfounded, but a host of problems still remain. The tolerable level of strikes in public agencies will be renewed as an issue whenever such stoppages occur or are threatened. The appropriate level of public sector compensation will also be a topic of ongoing debate. Both labour and management will experience internal divisions, and if the thrust of government policy shifts sharply, as happens frequently in Canada, the efforts of politicians to impose their new priorities on public sector employees will raise difficulties for all concerned. Overall, however, coping with these problems appears to be within the capabilities of the parties involved.

If, instead, the doomsday hypothesis is realized, the future will be quite different. The extent of collective bargaining may diminish slightly, unless it is banned completely by legislation. In the latter situation, two responses by labour are likely. First, militant blue-collar or quasi-industrial workers will probably raise the level of industrial disputes dramatically, while white-collar workers will act in different ways. Many will accept their new circumstances, while making extensive use of grievance and appeals procedures in order to gain those protections still available. Others, in those areas where the social and work environments are supportive, will adopt more militant tactics, as the CR group did in 1980. Secondly, the role of public sector managers will become less relevant to industrial relations as politicians centralize power over employment-related decisions. However, the intrusion of elected officials into the negotiation process will make political confrontation between public sector workers and government, a phenomenon previously confined principally to Quebec, virtually inevitable.

Political programs that seek to reduce the size of government are likely to unify the labour movement. Previous efforts by both the federal government and the CLC to establish a structure for tripartite consultations among government, labour and management failed in large part because the parties were unable to agree on broad policies for the public sector. Restrictive policies, directed at the public sector and at government services, have a sufficient class bias to cause private sector unions to put aside their earlier differences with the public sector groups in order to meet a common opponent. In an environment of restraint, public sector compensation may disappear as a public issue. If the level of compensation falls below that in the private sector, the matter will be raised in bargaining or through political channels, depending on the legislative regime in place. Based on the past behaviour of commentators on the subject, only public sector unions will be concerned about a negative wage gap, and they are likely to be able to use the issue to mobilize their members.

Microtechnology may affect many white-collar jobs in the public sector. Yet technological change is often excluded from the scope of bargaining. It is unlikely that employers will be able to hide behind a legislative shield to avoid meeting employees' concerns about the emerging technology.

Efforts by governments to undermine collective bargaining in order to achieve quick reductions in spending seem misguided. In some jurisdictions and in the private sector, bargaining has coped rather well with the difficulties caused by economic conditions. The risks for government, its managers and its employees of continuing restraint legislation are too great to offset the gains such policies produce.

Wise governments will use the tools collective bargaining provides to deal with economic problems; foolish ones will intervene and probably face new confrontation with their employees, especially when the economy improves.

The Members of the Institute

Board of Directors

The Honourable John B. Aird, O.C., Q.C.
(Honorary Chairman)
Lieutenant Governor of Ontario, Toronto
The Honourable Robert L. Stanfield, P.C., Q.C. (Chairman), Ottawa
Louis A. Desrochers, Q.C. (Vice-Chairman)
McCuaig, Desrochers, Edmonton
Richard Cashin
President, Newfoundland Fishermen, Food and Allied Workers' Union, St. John's
Claude Castonguay, C.C.
Président et chef de la direction,
La Corporation du Groupe
La Laurentienne, Québec
Guy Chabot, c.a.
Raymond, Chabot, Martin & Paré
Montréal
Roger Charbonneau
Président du conseil d'administration
Banque Nationale de Paris (Canada)
Montréal
Dr. Rod Dobell
President, The Institute for Research on Public Policy
Victoria
Dr. Henry E. Duckworth, O.C.
President Emeritus
University of Winnipeg
Dr. Regis Duffy
President, Diagnostic Chemicals Ltd.
Charlottetown
Dr. James D. Fleck
Faculty of Management Studies
University of Toronto
Peter C. Godsoe
Vice Chairman, The Bank of Nova Scotia
Toronto
The Honourable William M. Hamilton, P.C., O.C., LL.D., Royal Commission on the Economic Union and Development Prospects for Canada, Vancouver
Grace Hartman
President Emeritus, CUPE, Willowdale
David Hennigar
Atlantic Regional Director
Burns Fry Limited, Halifax
T. E. Kierans
President, McLeod Young Weir Limited
Toronto
Roland J. Lutes, C.A.
Clarkson Gordon, Saint John
E.M. Mills
Director, Calgary Chamber of Commerce
Pierre Nadeau
Président du conseil, Tioxide Canada Inc.
Montréal
Dr. Tom Pepper
Pepper Consultants Ltd., Saskatoon
Guy Roberge, Q.C., Conseil
Clarkson, Tétrault, Ottawa
Claudine Sotiau
Ducros, Meilleur, Roy et associés ltée
Montréal

Secretary

Peter C. Dobell
Director, Parliamentary Centre for Foreign Affairs and Foreign Trade
Ottawa

Treasurer

Dr. Louis Vagianos
Executive Director, The Institute for Research on Public Policy, Halifax

Executive Committee

The Honourable Robert L. Stanfield (Chairman)
Louis A. Desrochers (Vice-Chairman)
Claude Castonguay
Peter C. Dobell
Rod Dobell
Roland J. Lutes
Louis Vagianos

Investment Committee

Tom Kierans (Chairman)
Marcel Cazavan
Peter C. Dobell
Peter C. Godsoe
Paul Little

Council of Trustees

Members at Large

Dr. Stefan Dupré (Chairman)
Department of Political Science, University of Toronto
Doris H. Anderson, O.C.
Toronto
Professor Kell Antoft
Director, Institute of Public Affairs, Dalhousie University, Halifax
Marie-Andrée Bertrand
Fédération des associations de professeurs des universités du Québec, Montréal
Roger Blais
Directeur, Centre d'innovation industrielle
Montréal
George Cooper, Q.C.
McInnes, Cooper and Robertson, Halifax
James S. Cowan, Q.C.
Partner
Stewart, MacKeen & Covert, Halifax

Dr. Wendy Dobson
Executive Director, C.D. Howe Institute
Toronto
Marc Eliesen
Deputy Minister, Energy & Mines
Government of Manitoba, Winnipeg
Emery Fanjoy
Secretary, Council of Maritime Premiers
Halifax
Dr. Allan K. Gillmore
Executive Director, Association of
Universities and Colleges of Canada
Ottawa
Dr. Donald Glendenning
President, Holland College, Charlottetown
Richard W. Johnston
President, Spencer Stuart & Associates
Toronto
Dr. Leon Katz, O.C.
Department of Physics, University of
Saskatchewan, Saskatoon
Dr. Leo Kristjanson
President, University of Saskatchewan
Saskatoon
Marilyn MacDonald
Halifax
R. Terrence Mactaggart
President, The Niagara Institute
Niagara-on-the Lake
Dr. John S. McCallum
Faculty of Administrative Studies
University of Manitoba, Winnipeg
Claude Morin
École nationale d'administration publique
Québec
Professor William A. W. Neilson
Faculty of Law, University of Victoria
Roderick C. Nolan, P.Eng.
Executive Vice-President, Neill &
Gunter Limited, Fredericton
Robert J. Olivero
United Nations Secretariat, New York
Maureen O'Neil
Co-ordinator, Status of Women Canada
Ottawa
Garnet T. Page, O.C.
Calgary
Dr. Gilles Paquet
Dean, Faculty of Administration
University of Ottawa
Dr. K. George Pedersen
President, University of British Columbia
Vancouver
Professor Marilyn L. Pilkington
Osgoode Hall Law School, Toronto
Dr. David W. Slater
Chairman, Economic Council of Canada
Ottawa
Dr. Stuart L. Smith
Chairman, Science Council of Canada
Ottawa
Eldon D. Thompson
President, Télésat, Vanier
Marc-Adélard Tremblay, O.C.
Departement d'anthropologie
Université Laval, Québec
Dr. Israel Unger
Department of Chemistry, University of
New Brunswick, Fredericton
Philip Vineberg, O.C., Q.C.
Phillips & Vineberg, Montreal
Dr. Norman Wagner
President, University of Calgary
Ida Wasacase, C.M.
Saskatchewan Indian Cultural College
Saskatoon
Dr. R. Sherman Weaver
Executive Director, Alberta Environmental
Research Centre, Vegreville
Professor Paul Weiler
Harvard Law School, Cambridge, Mass.
Dr. Blossom Wigdor
Director, Program in Gerontology
University of Toronto
The Very Rev. Dr. Lois Wilson, B.A., B.D.,
D.D. Co-Director
Ecumenical Forum of Canada, Toronto

Government Representatives

Joseph H. Clarke, Nova Scotia
Michael Decter, Manitoba
Jim Dinning, Alberta
Greg Fyffe, Saskatchewan
Colin Heartwell, Yukon
Robert A. Nutbrown, Prince Edward Island
John H. Parker, Northwest Territories
Jean-K. Samson, Quebec
Gordon S. Smith, Canada
Norman Spector, British Columbia
Barry Toole, New Brunswick
John Tory, Ontario
David Vardy, Newfoundland

Institute Management

Rod Dobell	President
Louis Vagianos	Executive Director
Gordon Robertson	Fellow-in-Residence
John M. Curtis	Director, International Economics Program
Gérald d'Amboise	Director, Small- and Medium-Sized Business Program
Barbara L. Hodgins	Director, Western Resources Program
Barry Lesser	Director, Regional Employment Opportunities Program
Louis Vagianos	Acting Director, Technology and Society Program
Parker Staples	Director, Financial Services
Donald Wilson	Director, Communications
Tom Kent	Editor, *Policy Options Politiques*

The Institute for Research on Public Policy/L'Institut de recherches politiques

Publications Available*

July 1984

Leroy O. Stone & Claude Marceau	*Canadian Population Trends and Public Policy Through the 1980s.* 1977 $4.00
Raymond Breton	*The Canadian Condition: A Guide to Research in Public Policy.* 1977 $2.95
Raymond Breton	*Une orientation de la recherche politique dans le contexte canadien.* 1977 $2.95
J.W. Rowley & W.T. Stanbury (eds.)	*Competition Policy in Canada: Stage II, Bill C-13.* 1978 $12.95
W.E. Cundiff	*Nodule Shock? Seabed Mining and the Future of the Canadian Nickel Industry.* 1978 $3.00
C.F. Smart & W.T. Stanbury (eds.)	*Studies on Crisis Management.* 1978 $9.95
W.T. Stanbury (ed.)	*Studies on Regulation in Canada.* 1978 $9.95
Michael Hudson	*Canada in the New Monetary Order: Borrow? Devalue? Restructure!* 1978 $6.95
Robert A. Russel	*The Electronic Briefcase: The Office of the Future.* 1978 $3.00
C.C. Gotlieb	*Computers in the Home: What They Can Do for Us — And to Us.* 1978 $3.00
David K. Foot (ed.)	*Public Employment and Compensation in Canada: Myths and Realities.* 1978 $10.95
Raymond Breton & Gail Grant Akian	*Urban Institutions and People of Indian Ancestry: Suggestions for Research.* 1979 $3.00
K.A.J. Hay	*Friends or Acquaintances? Canada and Japan's Other Trading Partners in the Early 1980s.* 1979 $3.00

*** Order Address**: The Institute for Research on Public Policy
P.O. Box 3670
Halifax, Nova Scotia
B3J 3K6

Thomas H. Atkinson	*Trends in Life Satisfaction Among Canadians, 1968–1977.* 1979 $3.00
W.E. Cundiff & Mado Reid (eds.)	*Issues in Canadian/U.S. Transborder Computer Data Flows.* 1979 $6.50
David K. Foot (ed.)	*Public Employment in Canada: Statistical Series.* 1979 $15.00
Meyer W. Bucovetsky (ed.)	*Studies in Public Employment and Compensation in Canada.* 1979 $14.95
Richard French & André Béliveau	*The RCMP and the Management of National Security.* 1979 $6.95
Richard French & André Béliveau	*La GRC et la gestion de la sécurité nationale.* 1979 $6.95
Fred Thompson & W.T. Stanbury	*The Political Economy of Interest Groups in the Legislative Process in Canada.* 1979 $3.00
G. Bruce Doern & Allan M. Maslove (eds.)	*The Public Evaluation of Government Spending.* 1979 $10.95
Leroy O. Stone & Michael J. MacLean	*Future Income Prospects for Canada's Senior Citizens.* 1979 $7.95
Richard M. Bird	*The Growth of Public Employment in Canada.* 1979 $12.95
Richard Price (ed.)	*The Spirit of the Alberta Indian Treaties.* 1979 $8.95
Richard J. Schultz	*Federalism and the Regulatory Process.* 1979 $1.50
Richard J. Schultz	*Le fédéralisme et le processus de réglementation.* 1979 $1.50
Lionel D. Feldman & Katherine A. Graham	*Bargaining for Cities, Municipalities and Intergovernmental Relations: An Assessment.* 1979 $10.95
Elliot J. Feldman & Neil Nevitte (eds.)	*The Future of North America: Canada, the United States, and Quebec Nationalism.* 1979 $7.95
Pierre Sormany	*Les micro-esclaves : vers une bio-industrie canadienne.* 1979 $3.00
Maximo Halty-Carrere	*Technological Development Strategies for Developing Countries: A Review for Policy Makers.* 1979 $12.95

David R. Protheroe	*Imports and Politics: Trade Decision Making in Canada, 1968–1979.* 1980 $8.95
Zavis P. Zeman & David Hoffman (eds.)	*The Dynamics of the Technological Leadership of the World.* 1980 $3.00
G. Bruce Doern	*Government Intervention in the Canadian Nuclear Industry.* 1980 $8.95
G. Bruce Doern & Robert W. Morrison (eds.)	*Canadian Nuclear Policies.* 1980 $14.95
Russell Wilkins	*Health States in Canada, 1926–1976.* 1980 $3.00
Russell Wilkins	*L'état de santé au Canada, 1926–1976.* 1980 $3.00
Allan M. Maslove & Gene Swimmer	*Wage Controls in Canada: 1975–78: A Study of Public Decision Making.* 1980 $11.95
T. Gregory Kane	*Consumers and the Regulators: Intervention in the Federal Regulatory Process.* 1980 $10.95
Réjean Lachapelle & Jacques Henripin	*La situation démolinguistique au Canada: évolution passée et prospective.* 1980 $24.95
Albert Breton & Anthony Scott	*The Design of Federations.* 1980 $6.95
A.R. Bailey & D.G. Hull	*The Way Out: A More Revenue-Dependent Public Sector and How It Might Revitalize the Process of Governing.* 1980 $6.95
David R. Harvey	*Christmas Turkey or Prairie Vulture? An Economic Analysis of the Crow's Nest Pass Grain Rates.* 1980 $10.95
Donald G. Cartwright	*Official Language Populations in Canada: Patterns and Contacts.* 1980 $4.95
Richard M. Bird	*Taxing Corporations.* 1980 $6.95
Leroy O. Stone & Susan Fletcher	*A Profile of Canada's Older Population.* 1980 $7.95
Peter N. Nemetz (ed.)	*Resource Policy: International Perspectives.* 1980 $18.95
Keith A.J. Hay (ed.)	*Canadian Perspectives on Economic Relations With Japan.* 1980 $18.95

Dhiru Patel	*Dealing With Interracial Conflict: Policy Alternatives.* 1980 $5.95
Raymond Breton & Gail Grant	*La langue de travail au Québec : synthèse de la recherche sur la rencontre de deux langues.* 1981 $10.95
Diane Vanasse	*L'évolution de la population scolaire du Québec.* 1981 $12.95
David M. Cameron (ed.)	*Regionalism and Supranationalism: Challenges and Alternatives to the Nation-State in Canada and Europe.* 1981 $9.95
Heather Menzies	*Women and the Chip: Case Studies of the Effects of Informatics on Employment in Canada.* 1981 $8.95
H.V. Kroeker (ed.)	*Sovereign People or Sovereign Governments.* 1981 $12.95
Peter Aucoin (ed.)	*The Politics and Management of Restraint in Government.* 1981 $17.95
Nicole S. Morgan	*Nowhere to Go? Possible Consequences of the Demographic Imbalance in Decision-Making Groups of the Federal Public Service.* 1981 $8.95
Nicole S. Morgan	*Où aller? Les conséquences prévisibles des déséquilibres démographiques chez les groupes de decision de la fonction publique fédérale.* 1981 $8.95
Raymond Breton, Jeffrey G. Reitz & Victor F. Valentine	*Les frontières culturelles et la cohésion du Canada.* 1981 $18.95
Peter N. Nemetz (ed.)	*Energy Crisis: Policy Response.* 1981 $18.95
James Gillies	*Where Business Fails.* 1981 $9.95
Robert A. Russel	*Office Automation: Key to the Information Society.* 1981 $3.00
Allan Tupper & G. Bruce Doern (eds.)	*Public Corporations and Public Policy in Canada.* 1981 $16.95
Réjean Lachapelle & Jacques Henripin	*The Demolinguistic Situation in Canada: Past Trends and Future Prospects.* 1982 $24.95
Irving Brecher	*Canada's Competition Policy Revisited: Some New Thoughts on an Old Story.* 1982 $3.00

Ian McAllister	*Regional Development and the European Community: A Canadian Perspective.* 1982 $13.95
Donald J. Daly	*Canada in an Uncertain World Economic Environment.* 1982 $3.00
W.T. Stanbury & Fred Thompson	*Regulatory Reform in Canada.* 1982 $7.95
Robert J. Buchan, C. Christopher Johnston, T. Gregory Kane, Barry Lesser, Richard J. Schultz & W.T. Stanbury	*Telecommunications Regulation and the Constitution.* 1982 $18.95
Rodney de C. Grey	*United States Trade Policy Legislation: A Canadian View.* 1982 $7.95
John Quinn & Philip Slayton (eds.)	*Non-Tariff Barriers After the Tokyo Round.* 1982 $17.95
Stanley M. Beck & Ivan Bernier (eds.)	*Canada and the New Constitution: The Unfinished Agenda.* 2 vols. 1982 $10.95
R. Brian Woodrow & Kenneth B. Woodside (eds.)	*The Introduction of Pay-TV in Canada: Issues and Implications.* 1982 $14.95
E.P. Weeks & L. Mazany	*The Future of the Atlantic Fisheries.* 1983 $5.00
Douglas D. Purvis (ed.), assisted by Frances Chambers	*The Canadian Balance of Payments: Perspectives and Policy Issues.* 1983 $24.95
Roy A. Matthews	*Canada and the "Little Dragons": An Analysis of Economic Developments in Hong Kong, Taiwan, South Korea and the Challenge/Opportunity They Present for Canadian Interests in the 1980s.* 1983 $11.95
Charles F. Doran	*Economic Interdependence, Autonomy, and Canadian/American Relations.* 1983 $5.00
Charles Pearson & Gerry Salembier	*Trade, Employment, and Adjustment.* 1983 $5.00
Steven Globerman	*Cultural Regulation in Canada.* 1983 $11.95
F.R. Flatters & R.G. Lipsey	*Common Ground for the Canadian Common Market.* 1983 $5.00

Frank Bunn, assisted by U. Domb, D. Huntley, H. Mills, H. Silverstein	*Oceans from Space: Towards the Management of Our Coastal Zones.* 1983 $5.00
C.D. Shearing & P.C. Stenning	*Private Security and Private Justice: The Challenge of the 80s.* 1983 $5.00
Jacob Finkelman & Shirley B. Goldenberg	*Collective Bargaining in the Public Service: The Federal Experience in Canada.* 2 vols. 1983 $29.95
Gail Grant	*The Concrete Reserve: Corporate Programs for Indians in the Urban Work Place.* 1983 $5.00
Roy George	*Targeting High-Growth Industry.* 1983 $5.00
Owen Adams & Russell Wilkins	*Healthfulness of Life.* 1984 $5.00
Yoshi Tsurumi with Rebecca R. Tsurumi	*Sogoshosha: Engines of Export-Based Growth* (Revised Edition). 1984 $10.95
Raymond Breton & Gail Grant	*The Dynamics of Government Programs for Urban Indians in the Prairie Provinces.* 1984 $19.95
Frank Stone	*Canada, The GATT and the International Trade System.* 1984 $15.00
Pierre Sauvé	*Private Bank Lending and Developing-Country Debt.* 1984 $10.00
Mark Thompson & Gene Swimmer	*Conflict or Compromise: The Future of Public Sector Industrial Relations.* 1984 $15.00
Samuel Wex	*Instead of FIRA: Autonomy for Canadian Subsidiaries.* 1984 $8.00
R.J. Wonnacott	*Selected New Developments in International Trade Theory.* 1984 $7.00
R.J. Wonnacott	*Aggressive US Reciprocity Evaluated with a New Analytical Approach to Trade Conflicts.* 1984 $8.00
Richard W. Wright	*Japanese Business in Canada: The Elusive Alliance.* 1984 $12.00
Paul K. Gorecki & W.T. Stanbury	*The Objectives of Canadian Competition Policy, 1888–1983.* 1984 $15.00

The Institute /L'Institut
for Research on Public Policy / de recherches politiques

Créé en 1972, l'Institut de recherches politiques est un organisme national dont l'indépendance et l'autonomie sont assurés grâce a des revenus provenant d'un fonds de dotation auquel souscrivent les gouvernements fédéral et provinciaux ainsi que le secteur privé. L'Institut obtient en outre des subventions et des contrats des gouvernements, des compagnies et des fondations afin de réaliser certains projets de recherche.

La raison d'être de l'Institut est triple :

- Servir de catalyseur au sein de la collectivité nationale en favorisant un débat public éclairé sur les principales questions d'intérêt général.
- Stimuler la participation de tous les éléments de la collectivité nationale à l'élaboration de la politique d'État.
- Trouver des solutions réalisables aux importants problèmes d'ordre politique afin de contribuer à l'élaboration d'une saine politique d'État.

Un Conseil d'administration, chargé de la décision, et une Commission de direction, responsable d'éclairer le Conseil sur l'orientation de la recherche, assurent la direction de l'Institut. L'administration courante des politiques, des programmes et du personnel relève du président.

L'Institut fonctionne de manière décentralisée et retient les services de chercheurs en divers points du Canada, s'assurant ainsi que toutes les régions contribuent aux recherches.

L'Institut cherche à favoriser, dans la mesure du possible, la compréhension et la discussion publiques des questions d'envergure nationale, controversées ou non. Il publie les conclusions de ses recherches avec clarté et impartialité. Les recommandations ou les conclusions énoncées dans les publications de l'Institut sont strictement celles de l'auteur et n'engagent aucunement le conseil d'administration, la commission de direction ou les bailleurs de fonds.

Le président assume la responsabilité ultime de publier un manuscrit au nom de l'Institut. Il jouit à cette fin des conseils du personnel de l'Institut et de critiques de l'extérieur quant à l'exactitude et l'objectivité du texte. Ne sont publiés que les textes qui traitent de façon compétente d'un sujet digne de la réflexion du public.

Les publications de l'Institut paraissent dans la langue de l'auteur et sont accompagnées d'un abrégé dans les langues officielles du Canada.

CONFLICT or COMPROMISE

THE FUTURE OF PUBLIC SECTOR INDUSTRIAL RELATIONS

edited by
Mark Thompson
and Gene Swimmer

Collective bargaining for public employees has raised some of the most difficult questions of policy facing government today. Over the past twenty years, collective bargaining in the public sector has been increasing. It has improved the relative income position of public servants, teachers, nurses, police officers, firefighters and others who work for the Canadian people. Improvement in relative pay rates, combined with security of employment at a time of economic recession, has led to a good deal of resentment against public service employees. Strikes and 'withdrawal of services' have not helped to improve general attitudes.

The result of all this is that many Canadians think that collective bargaining rights for public servants should be curtailed. On the other hand, public servants believe that the restraint policies of governments have already unfairly and discriminately curtailed their rights.

Mark Thompson and Gene Swimmer have edited a collection of papers that study the process of collective bargaining and the operation of the public service in the new era of that process. This collection will help to provide Canadians with a better understanding of collective bargaining in the public service and some of the issues it involves.

0-88645-001-2

$15.00